

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ALVIN BALDUS, CINDY BARBERA, CARLENE  
BECHEN, RONALD BIENDSEIL, RON BOONE, VERA  
BOONE, ELVIRA BUMPUS, EVANJELINA  
CLEEREMAN, SHEILA COCHRAN, LESLIE W.  
DAVIS III, BRETT ECKSTEIN, MAXINE HOUGH,  
CLARENCE JOHNSON, RICHARD KRESBACH,  
RICHARD LANGE, GLADYS MANZANET,  
ROCHELLE MOORE, AMY RISSEEUW, JUDY  
ROBSON, GLORIA ROGERS, JEANNE SANCHEZ-  
BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN,

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE  
and RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin Government  
Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI,  
PAUL D. RYAN, JR., REID J. RIBBLE,  
and SEAN P. DUFFY,

Intervenor-Defendants.

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**DECLARATION OF DOUGLAS M. POLAND IN SUPPORT OF  
PLAINTIFFS' RESPONSE TO MOTION FOR REVIEW BY THREE-JUDGE COURT  
OF ORDERS OF DECEMBER 8, 2011, AND DECEMBER 20, 2011**

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Civil Action  
File No. 11-CV-562

Three-judge panel  
28 U.S.C. § 2284

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VOCES DE LA FRONTERA, INC., RAMIRO VARA,  
OLGA WARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011  
JPS-DPW-RMD

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER, GERALD  
NICHOL, THOMAS CANE, THOMAS BARLAND, and  
TIMOTHY VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

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I, Douglas M. Poland, declare, under penalty of perjury and pursuant to 28 U.S.C.  
§ 1746, that the following is true and correct:

1. I am an attorney with the law firm of Godfrey & Kahn, S.C., and I am admitted to  
practice in the State of Wisconsin and in the U.S. District Court for the Eastern District of  
Wisconsin. I represent plaintiffs in the above-captioned matter. I make this declaration based on  
my personal knowledge and in support of plaintiffs' response to the "Motion for Review by  
Three-Judge Court of Orders of December 8, 2011, and December 20, 2011" (Dkt. 84).

2. Pursuant to the Court's Scheduling and Discovery Order (Dkt. 35) and Federal  
Rule of Civil Procedure 26(a), plaintiffs exchanged initial disclosures with defendants—  
members of the Wisconsin Government Accountability Board ("GAB"), each named in his  
official capacity—on November 16, 2011. A true and correct copy of plaintiffs' initial  
disclosures is attached as **Exhibit 1**; a true and correct copy of defendants' initial disclosures is  
attached as **Exhibit 2**.

3. Because defendants' disclosures listed categories of individuals without supplying names as required by Rule 26(a), plaintiffs filed a motion to compel (Dkt. 50) on November 21, 2011. On November 25, defendants served plaintiffs via e-mail with their Amended Initial Rule 26(a) Disclosures, a true and correct copy of which is attached as **Exhibit 3**. Four additional names were listed in the amended disclosures: Joe Handrick, Adam Foltz, Tad Ottman, and Ronald Keith Gaddie.

4. On November 22, 2011, plaintiffs issued subpoenas for Messrs. Handrick, Foltz, and Ottman, true and correct copies of which are attached as **Exhibit 4**. Mr. Handrick's deposition was noticed for December 1 at 10:00 a.m.; Mr. Foltz's deposition was noticed for December 2 at 9:00 a.m.; and Mr. Ottman's deposition was noticed for December 2 at 1:00 p.m. The subpoenas also required documents to be produced.

5. Process servers attempted to effect service starting November 23, 2011. David Moyer accepted service on Mr. Foltz's behalf at the Capitol on November 23. Mr. Handrick was personally served on November 28. Following multiple attempts to serve Mr. Ottman, at the Capitol and at possible home addresses, plaintiffs recalled Mr. Ottman's subpoena on November 30, without Mr. Ottman having been served. Mr. Ottman's subpoena was reissued on November 30 for deposition on December 7 at 1:00 p.m.; a true and correct copy of the reissued subpoena is attached as **Exhibit 5**. After two failed service attempts, Mr. Ottman was personally served on December 4 at a residential address.

6. The legislature moved on November 30, 2011, to quash the subpoena of Mr. Handrick (Dkt. 63), and on December 6 to quash the subpoena of Mr. Ottman (Dkt. 72). On December 1, the legislature served plaintiffs with an objection to the subpoena of Mr. Foltz, a true and correct copy of which is attached to this declaration as **Exhibit 6**. Plaintiffs filed an

opposition to the motion to quash the subpoena of Mr. Handrick on December 6 (Dkt. 71). The Court issued an order denying both motions to quash on December 8 (Dkt. 74).

7. Mr. Foltz's subpoena was reissued on December 5, 2011, for deposition on December 9 at 9:00 a.m.; a true and correct copy of the reissued subpoena is attached as **Exhibit 7**. Multiple attempts were made on December 5, 6, and 7 to serve Mr. Foltz at the Capitol and a residential address; none were successful.

8. Following the Court's December 8 order, counsel for the legislature agreed to accept service on behalf of all three witnesses. The subpoenas were reissued and their depositions were re-noticed for December 20, 21, and 22. Copies of the reissued subpoenas are attached as **Exhibit 8**.

9. On December 13, 2011, the legislature filed a motion for clarification of the Court's December 8 order (Dkt. 77). Plaintiffs responded to the motion on December 16 (Dkt. 80).

10. Mr. Handrick was deposed at the Madison offices of Godfrey & Kahn, S.C., on Tuesday, December 20, 2011. I attended the deposition and conducted much of the examination. A true and correct copy of the complete transcript of that deposition is attached as **Exhibit 9**.

11. Mr. Handrick was instructed not to answer a total of 45 questions. Eric McLeod, an attorney with Michael Best & Friedrich LLP, the law firm representing the legislature and the witness, instructed Mr. Handrick not to answer 11 questions. Those exchanges appear in the deposition transcript attached as **Exhibit 9** on the following pages: 89; 119; 122-23; 133-34; 134; 134; 134-35; 181; 182; 183; 185-86. Dan Kelly, an attorney with Reinhart Boerner Van Deuren S.C., the law firm representing defendants, instructed Mr. Handrick not to answer 34 questions. Those exchanges appear in the deposition transcript attached as **Exhibit 9** on the following pages: 79; 82-83; 83; 89-90; 92; 93; 94; 95; 98; 99; 99-100; 101-102; 102; 103; 106;

107; 109; 113; 114-15; 120; 120-21; 126-27; 128-29; 130-31; 137; 191-92; 193; 195; 196; 198-99; 201-202; 213-14; 217-18; 250-51.

12. On December 20, 2011, the Court issued an order granting in part and denying in part the legislature's motion for clarification (Dkt. 82). Counsel received the order via e-mail through the Court's ECF system at approximately 2:50 p.m., as the deposition of Mr. Handrick was underway. The deposition was adjourned to allow counsel to review the order.

13. When the deposition was reconvened, a stipulation was entered on the record allowing counsel for the legislature and defendants to continue to assert objections and instruct the witness not to answer based on privilege, with the assumption that the legislature would pursue an appeal of the Court's order by the end of the week. Counsel further agreed that, if no decision reversing the Court's previous discovery orders or staying Mr. Handrick's deposition was issued by December 30, that Mr. Handrick would be made available for a continuation of his deposition the first week of the new year. Plaintiffs agreed not to file any motion to compel related to these issues until the agreed-upon timeline had lapsed. This stipulation appears in the deposition transcript attached as **Exhibit 9** at pages 186-88.

14. Mr. Foltz was deposed at the Madison offices of Godfrey & Kahn, S.C., on Wednesday, December 21, 2011. I attended the deposition and conducted much of the examination. A true and correct copy of the complete transcript of that deposition is attached as **Exhibit 10**.

15. Mr. McLeod instructed Mr. Foltz not to answer 12 questions. Those exchanges appear in the deposition transcript attached as **Exhibit 10** on the following pages: 9-10; 21; 44-45; 63-64; 67-68; 79-80; 126-27; 145; 146; 149-50; 152; 234-35.

16. Mr. Foltz produced some documents in response to the document request included in the subpoena. He also withheld a number of responsive documents on the basis of privilege.

A copy of the “privilege log” and objections asserted by Mr. McLeod in response to the subpoena issued to Mr. Foltz is attached as **Exhibit 11**.

17. Mr. Ottman was deposed at the Madison offices of Godfrey & Kahn, S.C., on Thursday, December 22, 2011. I attended the deposition and conducted much of the examination. A true and correct copy of the transcript of that deposition is attached as **Exhibit 12**.

18. Mr. McLeod instructed Mr. Ottman not to answer 15 questions. Those exchanges appear in the deposition transcript attached as **Exhibit 12** on the following pages: 17; 38-39; 45; 50-51; 68-69; 74; 83; 89; 91; 108-109; 128; 172-73; 179-80; 193-94; 207.

19. Mr. Ottman produced some documents in response to the document request included in the subpoena. He also withheld a number of documents on the basis of privilege. A copy of the “privilege log” and objections asserted by Mr. McLeod in response to the subpoena issued to Mr. Ottman is attached as **Exhibit 13**.

20. Attached as **Exhibits 14 and 15** are true and correct copies of documents included in Exhibit 33A from the deposition of Mr. Ottman.

21. Attached as **Exhibit 16** is a true and correct copy of Exhibit 36 from the deposition of Mr. Ottman.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 27, 2011.

*s/ Douglas M. Poland*

Douglas M. Poland  
State Bar No. 1055189  
Godfrey & Kahn, S.C.  
One East Main Street, Suite 500  
P.O. Box 2719  
Madison, WI 53701-2719  
608-257-3911  
dpoland@gklaw.com

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# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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ALVIN BALDUS, CARLENE BECHEN, ELVIRA  
BUMPUS, RONALD BIENDSEI, LESLIE W. DAVIS  
III, BRETT ECKSTEIN, GEORGIA ROGERS,  
RICHARD KRESBACH, ROCHELLE MOORE, AMY  
RISSEEUW, JUDY ROBSON, JEANNE SANCHEZ-  
BELL, CECELIA SCHLIEPP, TRAVIS THYSSEN, and  
CINDY BARBERRA,

Plaintiffs,

Civil Action  
File No. 11-CV-562

v.

Members of the Wisconsin Government Accountability  
Board, each only in his official capacity:  
MICHAEL BRENNAN, DAVID DEININGER,  
GERALD NICHOL, THOMAS CANE,  
THOMAS BARLAND, TIMOTHY VOCKE, and  
KEVIN KENNEDY, Director and General Counsel for the  
Wisconsin Government Accountability Board,

Defendants.

Three-judge panel  
28 U.S.C. § 2284

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**PLAINTIFFS' RULE 26 DISCLOSURES**

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Pursuant to Federal Rules of Civil Procedure 26(a)(1) and (2) and the scheduling and  
discovery stipulation between the parties, negotiated at the request of the Court and entered as an  
order by the Court on November 14, 2011, plaintiffs make the following initial disclosures:

1. Rule 26(a)(1)(A)(i) - the name and address and telephone number of each  
individual likely to have discoverable information that the disclosing party may use:



<i>Name/Address</i>	<i>Subject of information</i>
Hon. Peter Barca Room 201 West, State Capitol Madison, WI 53708 (608) 266-5504	Effects of redistricting/political drafting and enactment process for Acts 43/44/minority participation
Hon. Jeff Fitzgerald Room 211 West, State Capitol Madison, WI 53708 (608) 266-2540	Political drafting and enactment process for Acts 43/44
Hon. Scott Fitzgerald Room 211 South, State Capitol Madison, WI 53707-7882 (608) 266-5660	Political drafting and enactment process for Acts 43/44
Adam Foltz Room 211 West, State Capitol Madison, WI 53708 (608) 266-3387	Political drafting process for Acts 43/44—goals and factors
Joe Handrick 1000 North Water Street, Suite 1700 Milwaukee, WI 53202 (414) 298-1000	Political drafting and enactment process for Acts 43/44—goals and factors
Kevin Kennedy Government Accountability Board 212 East Washington, 3 <sup>rd</sup> Floor Madison, WI 53703 (608) 266-8005	History of redistricting/campaign and election process and deadlines/applicability of district lines
Hon. Mary Lazich Room 8 South, State Capitol Madison, WI 53707-7882 (608) 266-5400	Boundaries for recall elections
David Obey 3920 36 <sup>th</sup> Street North Arlington, VA 22207-5312 (703) 525-1694	Historical data and patterns/Congressional district constituencies/communities of interest
Tad Ottman Room 211 South, State Capitol Madison, WI 53707 (608) 266-5660	Political drafting process for Acts 43/44—goals and factors

Judy Robson  
2411 East Ridge Road  
Beloit, WI 53511  
(608) 362-8338

Legislative districts/voting history/disenfranchisement  
of state senate voters

Plaintiffs reserve the right to identify any additional witness disclosed in any of the documents produced in this litigation by defendants or third parties.

2. Rule 26(a)(1)(A)(ii) - a copy or a description of all documents that may be used to support plaintiffs' claims.

All of the documents or other materials subject to this Rule that the plaintiffs may use are public records—including census data and legislative proposals or enactments—or, if not public records, are not in plaintiffs' "possession, custody or control" and, therefore, not subject to the Rule. Rather, they are in the possession, custody or control of defendants or third parties, which are subject to the discovery process. The only exception to this disclosure is the privileged work product of plaintiffs' expert witnesses.

3. Rule 26(a)(1)(A)(iii) - a computation of each category of damages sought by the plaintiffs.

Plaintiffs do not seek monetary damages; rather, they seek only declaratory and injunctive relief and, upon the entry of an appropriate order, an award of attorneys' fees and costs pursuant to federal law.

4. Rule 26(a)(1)(A)(iv) - any insurance agreement that may be relevant.

Plaintiffs are aware of none.

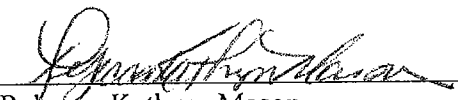
5. Rule 26(a)(2) - the identity of any witnesses who may be used at trial to present evidence under Federal Rules of Evidence 702, 703 or 705.

Plaintiffs' expert witness will be Ken Mayer, 7105 Longmeadow, Madison, Wisconsin 53717. The report required by Rule 26(a)(2)(B) will be submitted pursuant to the November 14, 2011 scheduling and discovery order—that is, no later than December 14, 2012.

Plaintiffs make the Rule 26 disclosures based upon the knowledge and information now reasonably available to them. Accordingly, plaintiffs reserve the right to supplement this disclosure in accordance with the Federal Rules of Civil Procedure and the local rules of this Court, including the identification of additional witnesses and experts in response to the defendants' Rule 26 disclosures. These initial disclosures are provided without prejudice to plaintiffs' right to introduce at a hearing or at trial any evidence that is subsequently discovered.

Dated: November 16, 2011.

GODFREY & KAHN, S.C.

By:   
Rebecca Kathryn Mason  
State Bar No. 1055500  
One East Main Street, Suite 500  
P.O. Box 2719  
Madison, WI 53701-2719  
608-257-3911  
rmason@gklaw.com  
*Attorneys for Plaintiffs*

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## **EXHIBIT 2**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

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ALVIN BALDUS, CINDY BARBERA,  
CARLENE BECHEN, ELVIRA BUMPUS,  
RONALD BIENDSEI, LESLIE W. DAVIS, III,  
BRETT ECKSTEIN, GEORGIA ROGERS,  
RICHARD KRESBACH, ROCHELLE MOORE,  
AMY RISSEEUW, JUDY ROBSON, JEANNE  
SANCHEZ-BELL, CECELIA SCHLIEPP, and  
TRAVIS THYSSEN,

Plaintiffs,

v.

Case No. 11-C-00562  
(Three Judge Panel)

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS  
CANE, THOMAS BARLAND, and TIMOTHY  
VOCKE, and KEVIN KENNEDY, Director and  
General Counsel for the Wisconsin Government  
Accountability Board,

Defendants.

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DEFENDANTS' INITIAL RULE 26(a) DISCLOSURES

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NOW COME the defendants by their attorneys, J.B. Van Hollen, Attorney General, and  
Maria S. Lazar, Assistant Attorney General, and make the following initial disclosures pursuant  
to Fed. R. Civ. P. Rule 26(a)(1):

**A. Individuals potentially having knowledge regarding this matter.**

Defendants assert that the Government Accountability Board ("GAB") did not prepare,  
edit, or in any other way draft the redistricting maps for the new boundaries which were passed  
by the Legislature on July 19 and 20, 2011 and signed into law (2011 Wisconsin Acts 43 and 44)

by the Governor on August 9, 2011. GAB and the individual defendants have been sued because of their statutory responsibility to implement the districts that are now the law of the State. The defendants had no communications with the Legislature, prior to the enactment of the new redistricting maps on August 9, 2011, with respect to the boundaries of the new maps. Accordingly, the information and details provided in this Initial Rule 26(a) Disclosure are preliminary and to the best of the defendants' knowledge at this time. Defendants may amend this Disclosure as more discovery is completed.

Based upon the foregoing, the defendants make the following initial disclosures in accordance with the Court's Scheduling Order dated November 14, 2011:

1. Defendant Kevin J. Kennedy (GAB Director and General Counsel), Nathaniel E. Robinson (GAB Division Administrator, Elections Division), and other staff members or contracted employees, including but not limited to, Ross Hein, Sarah Whitt, David Grassel, Ann Oberle, and David Meyer, with respect to the implementation of the new redistricting maps.
2. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in drawing the redistricting maps which were signed into law on August 9, 2011, including without limitation, those individuals who reviewed the 2010 decennial census and assisted in determining the appropriate, constitutional boundaries for the state and Congressional districts as memorialized in Acts 43 and 44.
3. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in reviewing census and population data

from the 2010 decennial census to insure minimum population deviation for the new districts.

4. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in reviewing population and other data so as to preserve, to the extent possible and practicable, the core population of prior districts as well as communities of interest.
5. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature in insuring that the new redistricting maps, to the extent possible, kept wards and municipalities whole within legislative district boundaries and to the extent possible, recognized local government boundaries.
6. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to insure that, if voters were shifted from odd to even senate districts, they were not unnecessarily and unconstitutionally disenfranchised by being deprived of the opportunity to vote.
7. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who reviewed the 2010 decennial census data and the previous districting maps to insure that the new districts were as geographically compact as practicable.
8. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to prevent unnecessary and unconstitutional voter dilution of minority voters.

9. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to insure that the new districts reflected communities of interest along with race and that, where possible, minority citizens comprising a numerical majority of the citizen voting age population.
10. Individuals who reside in, or are familiar with, challenged districts and/or pre-existing districts with respect to facts about those districts that are relevant to the constitutionality of the new redistricting maps.
11. Experts retained on behalf of the Legislature, and/or its various bodies, who assisted in preparing the redistricting maps.
12. Experts to be retained on behalf of the defendants who will assist in defending against the allegations in the First Amended Complaint.
13. Other individuals whose identity will become known through further discovery.

**B. Potentially relevant documents.**

Defendants may use the following documents to support their defenses in this matter.

1. Documents in the possession of the GAB with respect to the implementation of the new redistricting maps.
2. The approved district maps which were created (by the Legislature or the Courts) each decade from 1970 through 2002.
3. The decennial census from 1970 through 2010.
4. Documents which detail population growth and changes from 1970 through 2010, including, but not limited to, historical, minority-based, social, and other community of interest breakdowns.



5. Documents in the possession of the Legislature, and/or its various bodies, which were utilized to draft the 2011 redistricting maps.
6. Expert reports and analysis, if any, in the possession of the Legislature, and/or its various bodies, which were utilized to draft the 2011 redistricting maps.
7. The defendants reserve the right to supplement this response with any documents that become known through further discovery.

All of the documents listed above, which are in the possession of counsel for defendants, have been made available for inspection by the other parties at a time and place mutually agreed upon by all parties. Any copies that are requested as a result of any inspection may be obtained at the expense of the requestor at the usual State copying rate.

**C. Calculation of damages.**

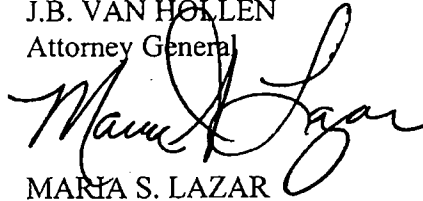
Monetary damages are not being sought in this action. Defendants reserve the right to present rebuttal evidence through their named fact and expert witnesses, as to any damages alleged by the plaintiffs.

**D. Insurance agreements.**

The State of Wisconsin is self-insured.

Dated this 16th day of November, 2011.

J.B. VAN HOLLEN  
Attorney General



MARIA S. LAZAR  
Assistant Attorney General  
State Bar #1017150

Attorneys for Defendants

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 267-3519  
(608) 267-2223 (fax)  
*lazarms@doj.state.wi.us*

## **EXHIBIT 3**

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN

---

ALVIN BALDUS, CARLENE BECHEN, ELVIRA  
BUMPUS, RONALD BIENDSEIL, LESLIE W.  
DAVIS, III, BRETT ECKSTEIN, GLORIA  
ROGERS, RICHARD KRESBACH, ROCHELLE  
MOORE, AMY RISSEEUW, JUDY ROBSON,  
JEANNE SANCHEZ-BELL, CECELIA  
SCHLIEPP, TRAVIS THYSSEN, CINDY  
BARBERA, RON BOONE, VERA BOONE,  
EVANJELINA CLEERMAN, SHEILA  
COCHRAN, MAXINE HOUGH, CLARENCE  
JOHNSON, RICHARD LANGE, and GLADYS  
MANZANET,

Plaintiffs,

Case No. 11-CV-00562  
JPS-DPW-RMD

TAMMY BALDWIN, GWENDOLYNNE MOORE and  
RONALD KIND,

Inteviewer-Plaintiffs,

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS  
CANE, THOMAS BARLAND, and TIMOTHY  
VOCKE, and KEVIN KENNEDY, Director and  
General Counsel for the Wisconsin Government  
Accountability Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E.  
PETRI, PAUL D. RYAN, JR., REID J. RIBBLE,  
and SEAN P. DUFFY.

Inteviewer-Defendants.

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VOCES DE LA FRONTERA, INC.,  
RAMIRO VARA, OLGA VARA,

JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Case No. 11-CV-1011  
JPS-DPW-RMD

Members of the Wisconsin Government  
Accountability Board, each only in his official  
capacity: MICHAEL BRENNAN, DAVID  
DEININGER, GERALD NICHOL, THOMAS  
CANE, THOMAS BARLAND, TIMOTHY  
VOCKE, and KEVIN KENNEDY, Director  
and General Counsel for the Wisconsin  
Government Accountability Board,

Defendants.

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DEFENDANTS' AMENDED INITIAL RULE 26(a) DISCLOSURES

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NOW COME the defendants by their attorneys, J.B. Van Hollen, Attorney General, and Maria S. Lazar, Assistant Attorney General, and make the following amended initial disclosures pursuant to Fed. R. Civ. P. Rule 26(a)(1):

**A. Individuals potentially having knowledge that the defendants may use to support their claims or defenses.**

Defendants assert that the Government Accountability Board ("GAB") did not prepare, edit, or in any other way draft the redistricting maps for the new boundaries which were passed by the Legislature on July 19 and 20, 2011 and signed into law (2011 Wisconsin Acts 43 and 44) by the Governor on August 9, 2011. GAB and the individual defendants have been sued because of their statutory responsibility to implement the districts that are now the law of the State. The defendants had no communications with the Legislature, prior to the enactment of the new

redistricting maps on August 9, 2011, with respect to the boundaries of the new maps. Accordingly, the information and details provided in these Amended Initial Rule 26(a) Disclosures are preliminary and to the best of the defendants' knowledge at this time. Defendants may amend these Disclosures as more discovery is completed.

Based upon the foregoing, the defendants make the following amended initial disclosures in accordance with the Court's Scheduling Order dated November 14, 2011:

1. Defendant Kevin J. Kennedy (GAB Director and General Counsel)  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, past elections and historical information.

2. Nathaniel E. Robinson (GAB Division Administrator, Elections Division)  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, past elections and historical information.

3. Ross Hein  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

4. Sarah Whitt  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

5. David Grassel  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

6. Ann Oberle  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

7. David Meyer  
Government Accountability Board  
212 East Washington Avenue, 3rd Floor  
Madison, WI 53703  
(608) 266-8005

Implementation of new redistricting maps (2011 Wisconsin Acts 43 and 44), other election administration, including but not limited to, election process, deadlines, and past elections.

8. Ronald Keith Gaddie, factual and expert testimony  
Professor of Political Science  
The University of Oklahoma  
455 West Lindsey Street, Room 222  
Norman, OK 73019-2001  
(405) 325-4989

Professor Gaddie will provide testimony regarding the constitutional requirements of the legislative maps at issue including, but not limited to, contiguity, compactness, communities of interest, core district populations, population requirements, voting rights, municipal and county splits, pairings, potential disenfranchisement and the lack of impermissible political gerrymandering of districts.

9. Individuals from the Legislature or one of its agencies who can provide factual, population, census data and other historical information related to the constitutional requirements of legislative maps at issue.
10. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in drawing the redistricting maps that were signed into law on August 9, 2011, including without limitation, those individuals who reviewed the 2010 decennial census and assisted in determining the appropriate, constitutional boundaries for the state and Congressional districts as memorialized in Acts 43 and 44:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660



Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

11. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in reviewing census and population data from the 2010 decennial census to insure minimum population deviation for the new districts:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

12. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who were involved in reviewing population and other data so as to preserve, to the extent possible and practicable, the core population of prior districts as well as communities of interest:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

13. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature in insuring that the new redistricting maps, to the extent possible, kept wards and municipalities whole within legislative district boundaries and to the extent possible, recognized local government boundaries:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

14. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to insure that, if voters were shifted

from odd to even senate districts, they were not unnecessarily disenfranchised by being deprived of the opportunity to vote:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

15. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who reviewed the 2010 decennial census data and the previous districting maps to insure that the new districts were as geographically compact as practicable:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

16. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to prevent unnecessary and unconstitutional voter dilution of minority voters:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

17. Individuals from the Legislature, and/or its various bodies, or those individuals on the Legislature's behalf, who assisted the Legislature to insure that the new districts reflected communities of interest:

Adam Foltz  
Room 211 West, State Capitol  
Madison, WI 53708  
(608) 266-3387

Tad Ottman  
Room 211 South, State Capitol  
Madison, WI 53708  
(608) 266-5660

Joe Handrick  
Reinhart, Boerner, Van Deuren, S.C.  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202  
(414) 298-1000

18. Individuals who reside in, or are familiar with, challenged districts and/or pre-existing districts with respect to facts about those districts that are relevant to the constitutionality of the new redistricting maps.
19. Experts retained on behalf of the Legislature, and/or its various bodies, who assisted in preparing the redistricting maps.
20. Experts retained, or to be retained, on behalf of the defendants who will assist in defending against the allegations in the Second Amended Complaint.

Ronald Keith Gaddie, factual and expert testimony  
Professor of Political Science  
The University of Oklahoma  
455 West Lindsey Street, Room 222  
Norman, OK 73019-2001  
(405) 325-4989

Professor Gaddie will provide testimony regarding the constitutional requirements of the legislative maps at issue including, but not limited to, contiguity, compactness, communities of interest, core district populations, population requirements, voting rights, municipal and county splits, pairings, potential disenfranchisement and the lack of impermissible political gerrymandering of districts.

21. Other individuals whose identity will become known through further discovery.

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i), the parties are to provide “the name, and if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.” Accordingly, the names listed above consist of the individuals, presently known to the defendants, who the defendants may use to support their claims or defenses. *Gluck v. Ansett Australia Ltd.*, 204 F.R.D. 217 (D.D.C. 2001) (plaintiff challenging defendants 26(a) disclosures required to show

that defendant intended to use undisclosed individuals at trial); *A Traveler v. CSX Transp., Inc.*, No. 1:06-cv-56, 2006 WL 2051732 (July 20, 2006, N.D. Ind.). Federal Rule of Civil Procedure 26, 2000 Notes of Advisory Committee, ¶9 ("A party is no longer obligated to disclose witnesses or documents, whether favorable or unfavorable, that it does not intend to use. . . . As case preparation continues, a party must supplement its disclosures when it determines that it may use a witness or document that it did not previously intend to use."); *Crouse Cartage Co. v. Nat'l Warehouse Inv. Co.*, No. IP02-0071-c-T/K, 2003 WL 21254617 (S.D. Ind. April 10, 2003) (challenge to 26(a) disclosures failed to clear "high hurdle" of demonstrating intent to use undisclosed witness).

Moreover, the matter at issue in this case is the constitutionality of Acts 43 and 44. Several of the individuals listed by the plaintiffs—aside from their expert—appear to be relevant only to the intent of the Legislature when it enacted these Acts. The Wisconsin State Supreme Court has expressly noted that legislative intent is determined by the language of a statute, not the subjective views of individual legislators who may have supported a bill. "It is the enacted law, not the unenacted intent, that is binding on the public." *State ex rel. Kalal v. Circuit Court*, 2004 WI 58, ¶ 44, 271 Wis. 2d 633, 681 N.W.2d 110. While there may be some inquiry into the action taken by the Legislature, "[g]overnmental action only fails rational basis scrutiny if no sound reason for the action can be hypothesized." *Board of Trustees v. Garrett*, 531 U.S. 356, 367 (2001). Finally, it is quite difficult, if not nearly impossible to determine legislative intent. *Edwards v. Aguillard*, 482 U.S. 578, 636-37 (1987) (J. Scalia, dissenting) ("discerning the subjective motivation of those enacting statutes is, to be honest, almost always an impossible task. The number of possible motivations, to begin with, is not binary, or indeed finite . . . . To look for the sole purpose of even a single legislator is probably to look for something that does

not exist.”) Indeed, if the trial in this case will delve into subjective motivations, it will not be completed within the four days allotted. Therefore, some of the individuals identified in the plaintiffs’ Initial Disclosures are not relevant to this challenge, and, are appropriately not identified by the defendants.

**B. Potentially relevant documents.**

Defendants may use the following documents to support their defenses in this matter.

1. Documents in the possession of the GAB with respect to the implementation of the legislative maps at issue.
2. The approved legislative maps which were created (by the Legislature or the Courts) each decade from 1970 through 2002.
3. The decennial census from 1970 through 2010.
4. Documents which detail population growth and changes from 1970 through 2010, including, but not limited to, historical, minority-based, social, and other community of interest breakdowns.
5. Historical documents and information relating to the constitutional requirements for the legislative maps at issue, including, but not limited to, contiguity, compactness, communities of interest, core district populations, population requirements, voting rights, municipal and county splits, pairings, and potential disenfranchisement.
6. Documents in the possession of the Legislature, and/or its various bodies, that were utilized to draft the 2011 legislative maps at issue.
7. Expert reports and analysis, if any, in the possession of the Legislature, and/or its various bodies, that were utilized to draft the 2011 legislative maps at issue.

8. The defendants reserve the right to further supplement this response with any documents that become known through further discovery.

Any of the documents listed above which are in the possession of defendants will be made available for inspection by the other parties at a time and place mutually agreed upon by all parties. Any copies that are requested as a result of any inspection may be obtained at the expense of the requestor at the usual State copying rate.

**C. Calculation of damages.**

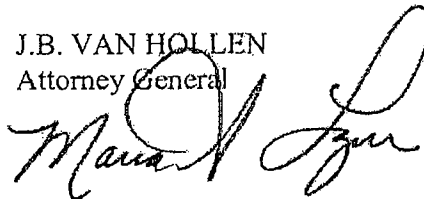
Monetary damages are not being sought in this action. Defendants reserve the right to present rebuttal evidence through their named fact and expert witnesses, as to any damages alleged by the plaintiffs.

**D. Insurance agreements.**

The State of Wisconsin is self-insured.

Dated this 25th day of November, 2011.

J.B. VAN HOLLEN  
Attorney General



MARIA S. LAZAR  
Assistant Attorney General  
State Bar #1017150

Attorneys for Defendants

Wisconsin Department of Justice  
Post Office Box 7857  
Madison, Wisconsin 53707-7857  
(608) 267-3519  
(608) 267-2223 (fax)  
*lazarms@doj.state.wi.us*



# **EXHIBIT 4**

November 22, 2011

**VIA PROCESS SERVER**

Joe Handrick  
1000 North Water Street, Suite 1700  
Milwaukee, WI 53202

RE: *Baldus et al. v. Brennan et al.*  
Eastern District of Wisconsin Case No. 11-CV-562

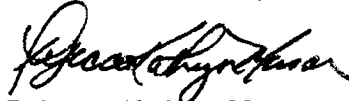
Dear Mr. Handrick:

Enclosed and served upon you is a Subpoena requiring you to appear for a deposition scheduled for December 1, 2011 beginning at 10:00 a.m. at the law offices of Godfrey & Kahn, S.C., 780 N. Water Street, Milwaukee, Wisconsin 53202.

The subpoena also requires that you produce at the deposition *any and all documents used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44.*

Please call me at (414) 287-9512 with any questions.

GODFREY & KAHN, S.C.



Rebecca Kathryn Mason

RKM:js  
Enclosures  
7139945\_1

**Issued by the**  
**UNITED STATES DISTRICT COURT**  
 Eastern District of Wisconsin

ALVIN BALDUS, et al.  
 V.

**SUBPOENA IN A CIVIL CASE**

Members of the Wisconsin Government Accountability Board,  
 each only in his official capacity: MICHAEL BRENNAN, et al.

Case Number:<sup>1</sup> 11-CV-562-JPS

TO: Joe Handrick  
 1000 North Water Street, Suite 1700  
 Milwaukee, WI 53202

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
GODFREY & KAHN, S.C., 780 N. Water Street Milwaukee, WI 53202, PH: 414-273-3500	12/1/2011 10:00 am

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Provide any and all documents used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44.

PLACE	DATE AND TIME
See address listed above.	12/1/2011 10:00 am

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Rebecca K. Mason, Attorney for Plaintiffs</i>	11/22/2011
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
Attorney Rebecca Kathryn Mason, GODFREY & KAHN, S.C., 780 N. Water Street, Milwaukee, WI 53202, Telephone: 414-273-3500, Email: rmason@gklaw.com	

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

---

**PROOF OF SERVICE**


---

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

---

**DECLARATION OF SERVER**


---

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

---

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

**(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) DUTIES IN RESPONDING TO A SUBPOENA.**

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) CONTEMPT.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

11-22-2011 HANDRICK, JOE

53783

053783

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
11-22-11	11112262	010175-0001	WITNESS/MILEAGE FEE	42.00

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

DETACH AND RETAIN THIS STATEMENT  
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW.  
IF NOT CORRECT, PLEASE NOTIFY US PROMPTLY, NO RECEIPT DESIRED.

53783

053783

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
11-22-11	11112262	010175-0001	WITNESS/MILEAGE FEE	42.00

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

**GODFREY & KAHN S.C.**

One East Main Street  
Madison, WI 53703

M&I MARSHALL & ILSLEY BANK  
MILWAUKEE, WI 53202

053783

12-5  
750

VOID AFTER 90 DAYS

PAY

FORTY-TWO AND 00/100

DATE

AMOUNT

11-22-2011

\$ 42.00

TO  
THE  
ORDER  
OF

JOE HANDRICK  
1000 NORTH WATER STREET, SUITE 1700  
MILWAUKEE, WI 53202

*Rachelle R. [Signature]*

AUTHORIZED SIGNATURE

November 22, 2011

**VIA PROCESS SERVER**

Adam Foltz  
Wisconsin State Capitol  
2 East Main Street, Room 211 West  
Madison WI, 53707

RE: *Baldus et al. v. Brennan et al.*  
Eastern District of Wisconsin Case No. 11-CV-562

Dear Mr. Foltz:

Enclosed and served upon you is a Subpoena requiring you to appear for a deposition scheduled for December 2, 2011 beginning at 9:00 a.m. at the law offices of Godfrey & Kahn, S.C., One East Main Street, Suite 500, Wisconsin 53703.

The subpoena also requires that you produce at the deposition *any and all documents used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44.*

Please call me at (608) 257-3911 with any questions.

GODFREY & KAHN, S.C.



Rebecca Kathryn Mason

RKM:js  
Enclosures  
7140045\_1

**Issued by the**  
**UNITED STATES DISTRICT COURT**  
 Eastern District of Wisconsin

ALVIN BALDUS, et al.

**SUBPOENA IN A CIVIL CASE**

V.

Members of the Wisconsin Government Accountability Board,  
 each only in his official capacity: MICHAEL BRENNAN, et al.

Case Number:<sup>1</sup> 11-CV-562-JPS

TO: Adam Foltz  
 Wisconsin State Capitol, 2 East Main Street, Room 211 West  
 Madison WI, 53707

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
GODFREY & KAHN, S.C., One East Main Street, Suite 500 Madison, WI 53703, PH: 608-257-3911	12/2/2011 9:00 am

- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

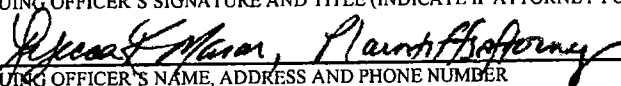
Provide any and all documents used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44.

PLACE	DATE AND TIME
See address listed above.	12/2/2011 9:00 am

- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
 Issuing Officer's Name, Address and Phone Number Attorney Rebecca Kathryn Mason, GODFREY & KAHN, S.C., One East Main Street, Suite 500, Madison, WI 53703, Telephone: (608) 257-3911, Email: rmason@gklaw.com	11/22/2011

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

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**PROOF OF SERVICE**


---

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

---

**DECLARATION OF SERVER**


---

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

---

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

**(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) DUTIES IN RESPONDING TO A SUBPOENA.**

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) CONTEMPT.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).



Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

11-22-2011 FOLTZ, ADAM

53782

053782

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
11-22-11	11112261	010175-0001	WITNESS/MILEAGE FEE	42.00

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

DETACH AND RETAIN THIS STATEMENT  
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW.  
IF NOT CORRECT, PLEASE NOTIFY US PROMPTLY, NO RECEIPT DESIRED.

53782

053782

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
11-22-11	11112261	010175-0001	WITNESS/MILEAGE FEE	42.00

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

**GODFREY KAHN** S.C.

One East Main Street  
Madison, WI 53703

M&I MARSHALL & ILSLEY BANK  
MILWAUKEE, WI 53202

053782

12-5  
750

VOID AFTER 90 DAYS

PAY

FORTY-TWO AND 00/100

DATE

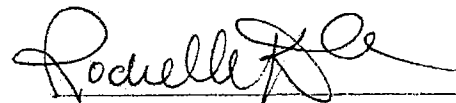
AMOUNT

11-22-2011

\$ 42.00

TO  
THE  
ORDER  
OF

ADAM FOLTZ  
WISCONSIN STATE CAPITOL  
2 EAST MAIN STREET  
MADISON, WI 53702



AUTHORIZED SIGNATURE

November 22, 2011

**VIA PROCESS SERVER**

Tad Ottman  
Wisconsin State Capitol  
2 East Main Street, Room 212 West  
Madison WI, 53707

RE: *Baldus et al. v. Brennan et al.*  
Eastern District of Wisconsin Case No. 11-CV-562

Dear Mr. Ottman:

Enclosed and served upon you is a Subpoena requiring you to appear for a deposition scheduled for December 2, 2011 beginning at 1:00 p.m. at the law offices of Godfrey & Kahn, S.C., One East Main Street, Suite 500, Wisconsin 53703.

The subpoena also requires that you produce at the deposition *any and all documents used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44.*

Please call me at (608) 257-3911 with any questions.

GODFREY & KAHN, S.C.



Rebecca Kathryn Mason

RKM:js  
Enclosures  
7140107\_1

**Issued by the**  
**UNITED STATES DISTRICT COURT**  
 Eastern District of Wisconsin

ALVIN BALDUS, et al.

**SUBPOENA IN A CIVIL CASE**

V.

Members of the Wisconsin Government Accountability Board,  
 each only in his official capacity: MICHAEL BRENNAN, et al.

Case Number:<sup>1</sup> 11-CV-562-JPS

TO: Tad Ottman  
 Wisconsin State Capitol, 2 East Main Street, Room 212 West  
 Madison WI, 53707

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
GODFREY & KAHN, S.C., One East Main Street, Suite 500 Madison, WI 53703, PH: 608-257-3911	12/2/2011 1:00 pm

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Provide any and all documents used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44.

PLACE	DATE AND TIME
See address listed above.	12/2/2011 1:00 pm

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Rebecca Kathryn Mason, Attorney for Plaintiffs</i>	11/22/2011
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
Attorney Rebecca Kathryn Mason, GODFREY & KAHN, S.C., One East Main Street, Suite 500, Madison, WI 53703, Telephone: (608) 257-3911, Email: rmason@gklaw.com	

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

---

**PROOF OF SERVICE**


---

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

---

**DECLARATION OF SERVER**


---

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

---

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

**(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.**

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) DUTIES IN RESPONDING TO A SUBPOENA.**

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) CONTEMPT.**

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

11-22-2011 OTTMAN, TAD

53784

053784

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
11-22-11	11112260	010175-0001	WITNESS/MILEAGE FEE	42.00

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

DETACH AND RETAIN THIS STATEMENT  
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW.  
IF NOT CORRECT, PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED.

53784

053784

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
11-22-11	11112260	010175-0001	WITNESS/MILEAGE FEE	42.00

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

**GODFREY & KAHN** S.C.

One East Main Street  
Madison, WI 53703

M&I MARSHALL & ILSLEY BANK  
MILWAUKEE, WI 53202

053784

12-5  
750

VOID AFTER 90 DAYS

PAY

FORTY-TWO AND 00/100

DATE

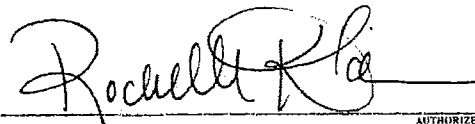
AMOUNT

11-22-2011

\$ 42.00

TO  
THE  
ORDER  
OF

TAD OTTMAN  
WISCONSIN STATE CAPITOL  
2 EAST MAIN STREET  
MADISON, WI 53702

  
AUTHORIZED SIGNATURE

# **EXHIBIT 5**

November 30, 2011

**VIA PROCESS SERVER**

Tad Ottman  
Wisconsin State Capitol  
2 East Main Street, Room 211 South  
Madison WI, 53707

RE: *Baldus et al. v. Brennan et al.*  
Eastern District of Wisconsin Case No. 11-CV-562

Dear Mr. Ottman:

Enclosed and served upon you is a Subpoena requiring you to appear for a deposition scheduled for December 7, 2011 beginning at 1:00 p.m. at the law offices of Godfrey & Kahn, S.C., 780 N. Water St., Milwaukee, WI 53202.

The subpoena also requires that you produce at the deposition *any and all documents, electronically stored information, and tangible things used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44.*

Please call me at (608) 257-3911 with any questions.

GODFREY & KAHN, S.C.



Rebecca Kathryn Mason

RKM:js  
Enclosures  
7161889\_1

**Issued by the**  
**UNITED STATES DISTRICT COURT**  
 Eastern District of Wisconsin

ALVIN BALDUS, et al.

**SUBPOENA IN A CIVIL CASE**

V.

Members of the Wisconsin Government Accountability Board,  
 each only in his official capacity: MICHAEL BRENNAN, et al.

Case Number:<sup>1</sup> 11-CV-562-JPS

TO: Tad Ottman  
 Wisconsin State Capitol, 2 East Main Street, Room 211 South  
 Madison WI, 53707  
 PH: 608-266-5660

☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
GODFREY & KAHN, S.C., 780 N. Water St., Milwaukee, WI 53202. The deposition will be recorded by stenographic and audiovisual means.	12/7/2011 1:00 pm

☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):

Provide any and all documents, electronically stored information, and tangible things used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44.

PLACE	DATE AND TIME
See address listed above.	12/7/2011 1:00 pm

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rule of Civil Procedure 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)	DATE
<i>Rebecca Kathryn Mason Attorney for Plaintiff</i>	11/30/2011
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER	
Attorney Rebecca Kathryn Mason, GODFREY & KAHN, S.C., One East Main Street, Suite 500, Madison, WI 53703, Telephone: (608) 257-3911, Email: rmason@gklaw.com	

(See Federal Rule of Civil Procedure 45 (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.



PROOF OF SERVICE

DATE	PLACE
SERVED	
SERVED ON (PRINT NAME)	MANNER OF SERVICE
SERVED BY (PRINT NAME)	TITLE

DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Federal Rule of Civil Procedure 45 (c), (d), and (e), as amended on December 1, 2007:

(c) PROTECTING A PERSON SUBJECT TO A SUBPOENA.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the issuing court must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information;
- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or
- (iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(d) DUTIES IN RESPONDING TO A SUBPOENA.

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(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

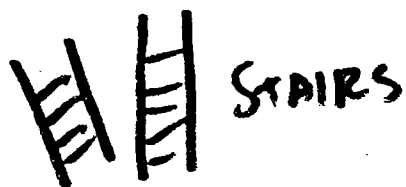
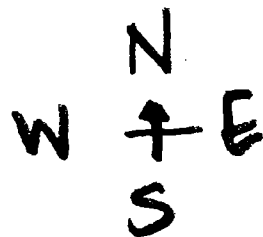
- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT.

The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

# 3RD FLOOR SOUTH



HALL

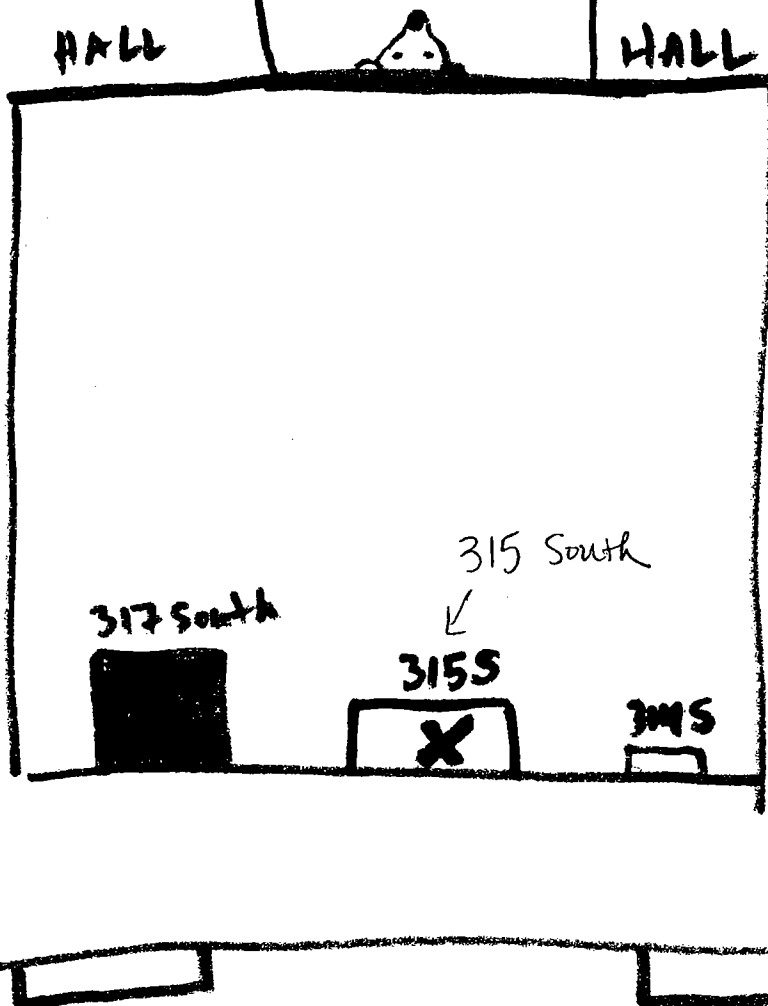
HALL



MOULTON



CARPENTER



LASCE

KEDIE

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

11-30-2011 OTTMAN, TAD

53876

053876

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
11-30-11	11113015	010175-0001	WITNESS FEE AND MILEAGE	126.58

GODFREY & KAHN S.C.

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

DETACH AND RETAIN THIS STATEMENT  
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW.  
IF NOT CORRECT, PLEASE NOTIFY US PROMPTLY, NO RECEIPT DESIRED.

53876

053876

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
11-30-11	11113015	010175-0001	WITNESS FEE AND MILEAGE	126.58

GODFREY & KAHN S.C.

# **EXHIBIT 6**

# MICHAEL BEST

& FRIEDRICH LLP

Michael Best & Friedrich LLP  
Attorneys at Law  
One South Pinckney Street  
Suite 700  
Madison, WI 53703

P.O. Box 1806  
Madison, WI 53701-1806

Phone 608.257.3501  
Fax 608.283.2275

Eric M. McLeod  
Direct 608.283.2257  
Email [emmcleod@michaelbest.com](mailto:emmcleod@michaelbest.com)

December 1, 2011

## VIA E-MAIL AND U.S. MAIL

Rebecca K. Mason  
Godfrey & Kahn SC  
780 North Water Street  
Milwaukee, WI 53202-3512

Re: Alvin Baldus, et al, v. Members of the Wisconsin Government Accountability Board, et al.  
Eastern District of Wisconsin, Case No. 11-CV-562

Dear Rebecca:

In accordance with Fed. R. Civ. P. 45(c)(2)(B), this shall serve as a formal objection to the subpoena issued to Adam Foltz dated November 22, 2011. In the subpoena, you demanded that Mr. Foltz produce for inspection "any and all documents used by you or members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44," as well as appear for a deposition on December 2, 2011. The subpoena is both facially invalid and otherwise improper for numerous reasons. Without waiving any additional objections, grounds for objection are set forth below.

### Service was not Properly Effectuated.

A subpoena must be personally delivered to be valid and effective. See *Barnhill v. United States*, 11 F.3d 1360, 1369 (7th Cir. 1993) (concluding that service by certified mail was ineffective). "[T]he method of service needs to be one that will ensure the subpoena is placed in the actual possession or control of the person to be served." *Firefighters' Institute for Racial Equality v. City of St. Louis*, 220 F.3d 898, 903 (8th Cir. 2000). Leaving the subpoena at a person's office is insufficient. See *United States v. Philip Morris Inc.*, 312 F. Supp. 2d 27, 37-38 (D. D.C. 2004).

Mr. Foltz was not personally served with the subpoena, nor was a copy "deliver[ed] . . . to the named person" in any other way. Instead, the subpoena was left with a receptionist at Assembly Speaker Fitzgerald's office. Thus, the subpoena is ineffective.

### The Subpoena was Issued from the Wrong Court.

A subpoena compelling deposition testimony must be issued from the court in the district where the deposition will be taken. Fed. R. Civ. P. 45(a)(2)(B). The subpoena was issued from the Eastern District of Wisconsin but seeks to compel attendance at a deposition in Madison, in the Western District. As such, the subpoena is facially invalid.

Rebecca K. Mason  
December 1, 2011  
Page 2

## **The Subpoena Does not Specify the Method of Recording Testimony.**

Rule 45(a)(1)(B) provides that "[a] subpoena commanding attendance at a deposition must state the method for recording the testimony." The subpoena does not do so. For this reason also, the subpoena is invalid on its face.

## **The Discovery Sought from Mr. Foltz is not Relevant to the Dispute.**

The discovery sought from Mr. Foltz is not relevant to any of the claims or issues in this matter. At issue in the litigation is whether the redistricting maps adopted by Acts 43 and 44 are constitutional. How the Legislature arrived at the final product is legally immaterial. The intent of any given participant in the process is immaterial. See *South Carolina Educ. Assn v. Campbell*, 883 F.2d 1251, 1257-58 (4<sup>th</sup> Cir. 1989) ("The Supreme Court has long recognized that judicial inquiries into legislative motivation are to be avoided.") Mr. Foltz is even one further step removed: Mr. Foltz is a staff member who assisted the Assembly leadership in connection with matters relating to the reapportionment of the Wisconsin Senate, Assembly, and Congressional districts arising out of the 2010 census. Since the actions or intent of individual legislators are irrelevant to the constitutional validity of Acts 43 and 44, those of a legislator's staff member are all the more immaterial to the dispute. To the extent the legislative process has any relevance, the legislative file and record, including committee testimony, are matters of public record and obtainable without a subpoena.

## **The Subpoena is Overbroad and Does not Specify the Documents Sought.**

The subpoena is vastly overbroad on its face in that it demands, without limitation, all documents "used by . . . members of the Legislature to draw the 2011 redistricting maps enacted as Act 43 and Act 44." The subpoena makes no attempt to specifically identify particular documents; it merely demands the entire files of every member of the Legislature. A subpoena should be appropriately tailored and specifically identify the documents sought. See *Moon v. SCP Pool Corp.*, 232 F.R.D. 633, 637-38 (C.D. Cal. 2006). A blanket, all-encompassing subpoena such as this one is improper. See *Linder v. Calero-Portcarrero*, 180 F.R.D. 168, 174-75 (D.D.C. 1998).

## **The Subpoena Seeks Documents Over Which Mr. Foltz Does not Have Possession or Control.**

Even if the scope of the subpoena were proper, it clearly seeks information that is outside of Mr. Foltz's possession or control. As a non-elected staff member employed by Speaker Fitzgerald's office, Mr. Foltz does not have control or custody over "documents used by" Speaker Fitzgerald, the representative for whom he works, let alone control or custody over "documents used by . . . members of the Legislature" at large. See *Outside Box Innovations, LLC v. Travel Caddy, Inc.*, 455 F. Supp. 2d 1374, 378 (N.D. Ga. 2006). Mr. Foltz has no legal right of possession over any

# MICHAEL BEST

& FRIEDRICH LLP

Rebecca K. Mason  
December 1, 2011  
Page 3

documents belonging to any of the Legislature's members. As such, Mr. Foltz cannot be compelled to produce them.

## **Complying with the Subpoena Would Result in an Unreasonable Burden and Unreasonable Expense.**

Even if we were to assume, for the sake of argument, that the scope of the subpoena were not overbroad, the scope of the subpoena still is improper because it would subject Mr. Foltz to an undue burden and undue expense. Mr. Foltz is in no position to know or be able to calculate the time and expense needed to compile and produce the redistricting files of all 33 members of the State Senate and all 99 members of the State Assembly. A subpoena may not subject the responding party to such an undue burden or expense. See Fed. R. Civ. P. 45(c)(1). The issued subpoena clearly does both. Moreover, even if the scope of the subpoena were proper, the time frame for compliance is wholly unreasonable: Mr. Foltz could not reasonably gather the requested information within the stated time for compliance; 10 calendar days, which included the Thanksgiving holiday.

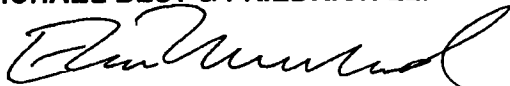
## **The Subpoena Seeks Information that is Privileged.**

Finally, the subpoena seeks information that is privileged and thus not subject to subpoena. Mr. Foltz and the Assembly and Senate leadership consulted with legal counsel during the redistricting process. As it relates to the redistricting process, all communications and actions on the part of Mr. Foltz took place in the context and for the purpose of assisting legal counsel in the provision of legal advice to Assembly and Senate leadership. Accordingly, any information Mr. Foltz may have concerning the redistricting process is privileged and not subject to production.

For all of the above reasons, Mr. Foltz will not be appearing for the deposition or producing documents on the date unilaterally set forth in the subpoena.

Sincerely,

MICHAEL BEST & FRIEDRICH LLP



Eric M. McLeod

EMM:mc

cc: See Attached Service List

## SERVICE LIST

Re: *Alvin Baldus, et al, v. Members of the Wisconsin Government Accountability Board, et al.*; Eastern District of Wisconsin Case No. 11-CV-562

Brady C. Williamson  
[bwilliam@gklaw.com](mailto:bwilliam@gklaw.com), [agrote@gklaw.com](mailto:agrote@gklaw.com), [jschwartz@gklaw.com](mailto:jschwartz@gklaw.com)

Daniel Kelly  
[dkelly@reinhardtlaw.com](mailto:dkelly@reinhardtlaw.com), [aschneik@reinhardtlaw.com](mailto:aschneik@reinhardtlaw.com)

Jacqueline E. Boynton  
[jackie@jboynton.com](mailto:jackie@jboynton.com)

Joseph W. Voiland  
[jvoiland@reinhardtlaw.com](mailto:jvoiland@reinhardtlaw.com), [abontempo@reinhardtlaw.com](mailto:abontempo@reinhardtlaw.com), [bmcgee@reinhardtlaw.com](mailto:bmcgee@reinhardtlaw.com)

Kellen C. Kasper  
[kkasper@foley.com](mailto:kkasper@foley.com), [nkujath@foley.com](mailto:nkujath@foley.com)

Maria S. Lazar  
[lazarms@doj.state.wi.us](mailto:lazarms@doj.state.wi.us), [welteaj@doj.state.wi.us](mailto:welteaj@doj.state.wi.us)

P. Scott Hassett  
[pshassett@yahoo.com](mailto:pshassett@yahoo.com), [lroth@lawtoncates.com](mailto:lroth@lawtoncates.com)

Peter G. Earle  
[peter@earle-law.com](mailto:peter@earle-law.com), [jbrennan@motleyrice.com](mailto:jbrennan@motleyrice.com)

Rebecca K. Mason  
[rmason@gklaw.com](mailto:rmason@gklaw.com), [aseligman@gklaw.com](mailto:aseligman@gklaw.com), [dbrown@gklaw.com](mailto:dbrown@gklaw.com), [jhaseleu@gklaw.com](mailto:jhaseleu@gklaw.com),  
[jschwartz@gklaw.com](mailto:jschwartz@gklaw.com), [mveldran@gklaw.com](mailto:mveldran@gklaw.com), [warends@gklaw.com](mailto:warends@gklaw.com)

Thomas L. Shriner, Jr.  
[tshriner@foley.com](mailto:tshriner@foley.com), [kszyszko@foley.com](mailto:kszyszko@foley.com)



# **EXHIBIT 7**

December 5, 2011

**VIA PROCESS SERVER**

Adam Foltz  
Wisconsin State Capitol  
2 East Main Street, Room 211 West  
Madison WI, 53707

RE: *Baldus et al. v. Brennan et al.*  
Eastern District of Wisconsin Case No. 11-CV-562


Dear Mr. Foltz:

Enclosed and served upon you is a Subpoena requiring you to appear for a deposition scheduled for December 9, 2011 beginning at 9:00 a.m. at the law offices of Godfrey & Kahn, S.C., 780 N. Water Street, Milwaukee, Wisconsin 53202.

The subpoena also requires that you produce at the deposition documents that are identified in the subpoena.

Please call me at (608) 257-3911 with any questions.

GODFREY & KAHN, S.C.

  
Rebecca Kathryn Mason  
Wendy K. Arends

WKA:js  
Enclosure  
7177158\_1

# UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

ALVIN BALDUS, et al.

*Plaintiff*

v.

Members of the Wisconsin Government Accountability Board, each  
only in his official capacity: MICHAEL BRENNAN, et al.

*Defendant*

Civil Action No. 11-CV-562-JPS

(If the action is pending in another district, state where: )

## SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Adam Foltz  
Wisconsin State Capitol, 2 East Main Street, Room 211 West, Madison, WI 53707

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: GODFREY & KAHN, S.C., 780 N. Water Street  
Milwaukee, WI 53202, PH: 414-273-3500

Date and Time:  
12/09/2011 9:00 am

The deposition will be recorded by this method: The deposition will be recorded by stenographic and audiovisual means.

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

See Exhibit A attached.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/05/2011

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk*

*Attorney's signature*

The name, address, e-mail, and telephone number of the attorney representing (name of party) Plaintiffs

Alvin Baldus, et al. , who issues or requests this subpoena, are:  
Attorney Wendy K. Arends, GODFREY & KAHN, S.C., One East Main Street, Suite 500, Madison, WI 53703, Telephone:  
(608) 284-2659, Email: warends@gklaw.com

Civil Action No. 11-CV-562-JPS

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**

**(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

### Exhibit A

You, or your representatives, must bring with you to the deposition the following documents, communications, electronically stored information or objects (collectively "documents") that are in your possession, custody or control, and permit the inspection, copying, testing or sampling of the material:

1. All documents concerning any analyses, data, plans, procedures and/or reports used by state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
2. All documents concerning the objectives and/or motives relied on by state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
3. All documents concerning the identities of persons who participated in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44.
4. All documents concerning the identities, contractual agreements and compensation of any experts and/or consultants retained to assist in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
5. All documents concerning the objective facts that lawmakers, their staff and/or any experts or consultants referenced, used or relied upon in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.

7177613\_1

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

12-02-2011 FOLTZ, ADAM

53908

053908

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
12-02-11	111202JB	010175-0001	WITNESS/MILEAGE FEE	126.58

GODFREY & KAHN

Godfrey & Kahn, S.C.  
One East Main Street  
Madison, WI 53703

DETACH AND RETAIN THIS STATEMENT  
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW.  
IF NOT CORRECT, PLEASE NOTIFY US PROMPTLY, NO RECEIPT DESIRED.

53908

053908

DATE	INVOICE #	CLIENT / MATTER #	GL # / DESCRIPTION	AMOUNT
12-02-11	111202JB	010175-0001	WITNESS/MILEAGE FEE	126.58

GODFREY & KAHN

THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

GODFREY & KAHN S.C.

One East Main Street  
Madison, WI 53703

M&I MARSHALL & ILSLEY BANK  
MILWAUKEE, WI 53202

053908

12-5  
750

VOID AFTER 90 DAYS

PAY

ONE HUNDRED TWENTY-SIX AND 58/100

DATE

AMOUNT

12-02-2011

\$ 126.58

TO  
THE  
ORDER  
OF

ADAM FOLTZ  
WISCONSIN STATE CAPITOL  
2 EAST MAIN STREET, ROOM 211 WEST  
MADISON, WI 53702

*Adam Foltz*  
AUTHORIZED SIGNATURE

# **EXHIBIT 8**



# GODFREY & KAHN S.C.

ONE EAST MAIN STREET, SUITE 500 • POST OFFICE BOX 2719  
MADISON, WISCONSIN 53701-2719

TEL • 608.257.3911 FAX • 608.257.0609

www • GKLaw.COM

Direct: 608-284-2625

dpoland@gklaw.com

Direct: 414-287-9512

rmason@gklaw.com

December 13, 2011

## VIA HAND DELIVERY

Joseph Handrick  
c/o Attorney Eric M. McLeod  
Michael Best & Friedrich LLP  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, WI 53202

RE: *Baldus et al. v. Brennan et al.*  
Eastern District of Wisconsin Case No. 11-CV-562

Dear Mr. Handrick:

Pursuant to our discussion with your counsel earlier this week, we have enclosed a Subpoena requiring your appearance for a deposition scheduled for December 20, 2011 beginning at 9:00 a.m. at the law offices of Godfrey & Kahn, S.C., 780 N. Water Street, Milwaukee, Wisconsin 53202.

The subpoena also requires that you produce at the deposition documents that are identified in the subpoena. Also, since you were served on November 28th with a check for the statutory witness and mileage fees to appear in Milwaukee for a deposition, we have not enclosed an additional check.

Please call me at (608) 257-3911 with any questions.

GODFREY & KAHN, S.C.



Douglas M. Poland  
Rebecca Kathryn Mason

WKA:js

Enclosure

cc: Maria Lazar (w/ encl, via Hand Delivery)  
Patrick Hodan (w/ encl, via Hand Delivery)  
P. Scott Hassett (w/ encl, via Hand Delivery)  
Thomas Shriner (w/ encl, via E-mail and U.S. Mail)  
Peter Earle (w/ encl, via E-mail and U.S. Mail)

7207934\_1

UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

ALVIN BALDUS, et al.

*Plaintiff*

v.

Members of the Wisconsin Government Accountability Board, each  
only in his official capacity: MICHAEL BRENNAN, et al.

*Defendant*

Civil Action No. 11-CV-562-JPS

(If the action is pending in another district, state where:

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Joe Handrick  
1000 North Water Street, Suite 1700, Milwaukee, WI 53202

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: GODFREY & KAHN, S.C., 780 N. Water Street  
Milwaukee, WI 53202, PH: 414-273-3500

Date and Time:

12/20/2011 9:00 am

The deposition will be recorded by this method: The deposition will be recorded by stenographic and audiovisual means.

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

See Exhibit A attached.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/13/2011

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party)

Plaintiffs

Alvin Baldus, et al.

, who issues or requests this subpoena, are:

Attorney Douglas M. Poland, GODFREY & KAHN, S.C., One East Main Street, Suite 500, Madison, WI 53703,  
Telephone: (608) 284-2625, Email: dpoland@gklaw.com

Civil Action No. 11-CV-562-JPS

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_ *Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**

**(c) Protecting a Person Subject to a Subpoena.**

**(1) *Avoiding Undue Burden or Expense; Sanctions.*** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) *Command to Produce Materials or Permit Inspection.***

**(A) *Appearance Not Required.*** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) *Objections.*** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) *Quashing or Modifying a Subpoena.***

**(A) *When Required.*** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) *When Permitted.*** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) *Specifying Conditions as an Alternative.*** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) *Producing Documents or Electronically Stored Information.*** These procedures apply to producing documents or electronically stored information:

**(A) *Documents.*** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) *Form for Producing Electronically Stored Information Not Specified.*** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) *Electronically Stored Information Produced in Only One Form.*** The person responding need not produce the same electronically stored information in more than one form.

**(D) *Inaccessible Electronically Stored Information.*** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) *Claiming Privilege or Protection.***

**(A) *Information Withheld.*** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) *Information Produced.*** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) *Contempt.*** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

### Exhibit A

You, or your representatives, must bring with you to the deposition the following documents, communications, electronically stored information or objects (whether sent or received) (collectively "documents") that are in your actual or constructive possession, custody or control, and permit the inspection, copying, testing or sampling of the material:

1. All documents, including but not limited to e-mail, concerning any analyses, data, plans, procedures and/or reports used by state legislative staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
2. All documents, including but not limited to e-mail, concerning the objectives and/or motives relied on by – or available to – state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
3. All documents, including but not limited to e-mail, concerning the identities of persons who participated in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44.
4. All documents, including but not limited to e-mail, concerning the identities, contractual agreements and compensation of any experts and/or consultants (including attorneys retained by contract) retained to assist in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
5. All documents, including but not limited to e-mail, concerning the objective facts that legislative staff and/or any experts or consultants referenced, used or relied upon – or available to – in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.

7177613\_2

# GODFREY & KAHN S.C.

ONE EAST MAIN STREET, SUITE 500 • POST OFFICE BOX 2719  
MADISON, WISCONSIN 53701-2719

TEL • 608.257.3911 FAX • 608.257.0609

www • GKLaw.COM

Direct: 608-284-2625  
dpoland@gklaw.com  
Direct: 414-287-9512  
rmason@gklaw.com

December 13, 2011

## VIA HAND DELIVERY

Adam Foltz  
c/o Attorney Eric M. McLeod  
Michael Best & Friedrich LLP  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, WI 53202

RE: *Baldus et al. v. Brennan et al.*  
Eastern District of Wisconsin Case No. 11-CV-562

Dear Mr. Foltz:

Pursuant to our discussion with your counsel earlier this week, we have enclosed a Subpoena requiring your appearance for a deposition scheduled for December 21, 2011 beginning at 9:00 a.m. at the law offices of Godfrey & Kahn, S.C., 780 N. Water Street, Milwaukee, Wisconsin 53202.

The subpoena also requires that you produce at the deposition documents that are identified in the subpoena. Also, enclosed is a check for \$126.58 as payment for the statutory witness and mileage fees.

Please call me at (608) 257-3911 with any questions.

GODFREY & KAHN, S.C.



Douglas M. Poland  
Rebecca Kathryn Mason

WKA:js

Enclosure

cc: Maria Lazar (w/ encl, via Hand Delivery)  
Patrick Hodan (w/ encl, via Hand Delivery)  
P. Scott Hassett (w/ encl, via Hand Delivery)  
Thomas Shriner (w/ encl, via E-mail and U.S. Mail)  
Peter Earle (w/ encl, via E-mail and U.S. Mail)

7207931\_1

UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

ALVIN BALDUS, et al.

Plaintiff

v.

Members of the Wisconsin Government Accountability Board, each  
only in his official capacity: MICHAEL BRENNAN, et al.

Defendant

Civil Action No. 11-CV-562-JPS

(If the action is pending in another district, state where:

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Adam Foltz  
Wisconsin State Capitol, 2 East Main Street, Room 211 West, Madison, WI 53707

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: GODFREY & KAHN, S.C., 780 N. Water Street  
Milwaukee, WI 53202, PH: 414-273-3500

Date and Time:

12/21/2011 9:00 am

The deposition will be recorded by this method: The deposition will be recorded by stenographic and audiovisual means.

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

See Exhibit A attached.

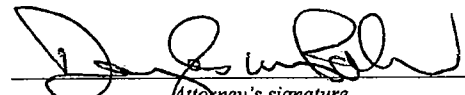
The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/13/2011

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

  
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Plaintiffs

Alvin Baldus, et al., who issues or requests this subpoena, are:  
Attorney Douglas M. Poland, GODFREY & KAHN, S.C., One East Main Street, Suite 500, Madison, WI 53703,  
Telephone: (608) 284-2625, Email: dpoland@gklaw.com

Civil Action No. 11-CV-562-JPS

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_  
\_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of  
\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_  
\_\_\_\_\_  
*Server's signature*  
\_\_\_\_\_  
*Printed name and title*  
\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**

**(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

**(i)** At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

**(ii)** These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

**(i)** fails to allow a reasonable time to comply;

**(ii)** requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

**(iii)** requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

**(iv)** subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

**(i)** disclosing a trade secret or other confidential research, development, or commercial information;

**(ii)** disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

**(iii)** a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

**(i)** shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

**(ii)** ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

**(i)** expressly make the claim; and

**(ii)** describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

### **Exhibit A**

You, or your representatives, must bring with you to the deposition the following documents, communications, electronically stored information or objects (whether sent or received) (collectively "documents") that are in your actual or constructive possession, custody or control, and permit the inspection, copying, testing or sampling of the material:

1. All documents, including but not limited to e-mail, concerning any analyses, data, plans, procedures and/or reports used by state legislative staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
2. All documents, including but not limited to e-mail, concerning the objectives and/or motives relied on by – or available to – state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
3. All documents, including but not limited to e-mail, concerning the identities of persons who participated in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44.
4. All documents, including but not limited to e-mail, concerning the identities, contractual agreements and compensation of any experts and/or consultants (including attorneys retained by contract) retained to assist in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
5. All documents, including but not limited to e-mail, concerning the objective facts that legislative staff and/or any experts or consultants referenced, used or relied upon – or available to – in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.

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THE BACK OF THIS DOCUMENT CONTAINS AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

**GODFREY & KAHN S.C.**

053908

One East Main Street  
Madison, WI 53703

M&I MARSHALL & ILSLEY BANK  
MILWAUKEE, WI 53202

12-5  
750

VOID AFTER 90 DAYS

PAY

ONE HUNDRED TWENTY-SIX AND 58/100

DATE

AMOUNT

12-02-2011

\$ 126.58

TO  
THE  
ORDER  
OF

ADAM FOLTZ  
WISCONSIN STATE CAPITOL  
2 EAST MAIN STREET, ROOM 211 WEST  
MADISON, WI 53702

*Handwritten Signature*

AUTHORIZED SIGNATURE

⑈053908⑈ ⑆07500005⑆ 00122⑈63064⑈

December 13, 2011

**VIA HAND DELIVERY**

Tad Ottman  
c/o Attorney Eric M. McLeod  
Michael Best & Friedrich LLP  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, WI 53202

RE: *Baldus et al. v. Brennan et al.*  
Eastern District of Wisconsin Case No. 11-CV-562

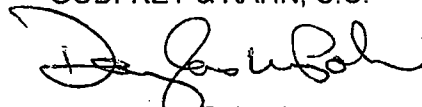
Dear Mr. Ottman:

Pursuant to our discussion with your counsel earlier this week, we have enclosed a Subpoena requiring your appearance for a deposition scheduled for December 22, 2011 beginning at 9:00 a.m. at the law offices of Godfrey & Kahn, S.C., 780 N. Water Street, Milwaukee, Wisconsin 53202.

The subpoena also requires that you produce at the deposition documents that are identified in the subpoena. Also, since you were served on December 4th with a check for the statutory witness and mileage fees to appear in Milwaukee for a deposition, we have not enclosed an additional check.

Please call me at (608) 257-3911 with any questions.

GODFREY & KAHN, S.C.



Douglas M. Poland  
Rebecca Kathryn Mason

WKA:js

Enclosure

cc: Maria Lazar (w/ encl, via Hand Delivery)  
Patrick Hodan (w/ encl, via Hand Delivery)  
P. Scott Hassett (w/ encl, via Hand Delivery)  
Thomas Shriner (w/ encl, via E-mail and U.S. Mail)  
Peter Earle (w/ encl, via E-mail and U.S. Mail)

7207957\_1

UNITED STATES DISTRICT COURT

for the

Eastern District of Wisconsin

ALVIN BALDUS, et al.

Plaintiff

v.

Members of the Wisconsin Government Accountability Board, each  
only in his official capacity: MICHAEL BRENNAN, et al.

Defendant

Civil Action No. 11-CV-562-JPS

(If the action is pending in another district, state where:

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: Tad Ottman  
Wisconsin State Capitol, 2 East Main Street, Room 211 South, Madison WI, 53707

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is *not* a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: GODFREY & KAHN, S.C., 780 N. Water Street  
Milwaukee, WI 53202, PH: 414-273-3500

Date and Time:

12/22/2011 9:00 am

The deposition will be recorded by this method: The deposition will be recorded by stenographic and audiovisual means.

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

See Exhibit A attached.

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 12/13/2011

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Plaintiffs

Alvin Baldus, et al., who issues or requests this subpoena, are:

Attorney Douglas M. Poland, GODFREY & KAHN, S.C., One East Main Street, Suite 500, Madison, WI 53703,  
Telephone: (608) 284-2625, Email: dpoland@gklaw.com

Civil Action No. 11-CV-562-JPS

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

This subpoena for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I served the subpoena by delivering a copy to the named individual as follows: \_\_\_\_\_

\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the subpoena unexecuted because: \_\_\_\_\_

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also  
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of

\$ \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

**Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**

**(c) Protecting a Person Subject to a Subpoena.**

**(1) Avoiding Undue Burden or Expense; Sanctions.** A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

**(2) Command to Produce Materials or Permit Inspection.**

**(A) Appearance Not Required.** A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

**(B) Objections.** A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

**(3) Quashing or Modifying a Subpoena.**

**(A) When Required.** On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

**(B) When Permitted.** To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

**(C) Specifying Conditions as an Alternative.** In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

**(d) Duties in Responding to a Subpoena.**

**(1) Producing Documents or Electronically Stored Information.** These procedures apply to producing documents or electronically stored information:

**(A) Documents.** A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

**(B) Form for Producing Electronically Stored Information Not Specified.** If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

**(C) Electronically Stored Information Produced in Only One Form.** The person responding need not produce the same electronically stored information in more than one form.

**(D) Inaccessible Electronically Stored Information.** The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

**(2) Claiming Privilege or Protection.**

**(A) Information Withheld.** A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

**(B) Information Produced.** If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

**(e) Contempt.** The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

### Exhibit A

You, or your representatives, must bring with you to the deposition the following documents, communications, electronically stored information or objects (whether sent or received) (collectively “documents”) that are in your actual or constructive possession, custody or control, and permit the inspection, copying, testing or sampling of the material:

1. All documents, including but not limited to e-mail, concerning any analyses, data, plans, procedures and/or reports used by state legislative staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
2. All documents, including but not limited to e-mail, concerning the objectives and/or motives relied on by – or available to – state lawmakers, their staff and/or any consultants or experts in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
3. All documents, including but not limited to e-mail, concerning the identities of persons who participated in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44.
4. All documents, including but not limited to e-mail, concerning the identities, contractual agreements and compensation of any experts and/or consultants (including attorneys retained by contract) retained to assist in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.
5. All documents, including but not limited to e-mail, concerning the objective facts that legislative staff and/or any experts or consultants referenced, used or relied upon – or available to – in the planning, development, negotiation, drawing, revision or redrawing of the maps codified in Wisconsin Acts 43 and 44 or any other potential congressional or legislative plan that was not adopted.

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# **EXHIBIT 11**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

ALVIN BALDUS, et al.,

Plaintiffs,

v.

Case No. 11-CV-562

MEMBERS OF THE WISCONSIN  
GOVERNMENT ACCOUNTABILITY BOARD, et al.,

Defendants.

---

**DOCUMENTS PRODUCED IN RESPONSE TO SUBPOENA  
ISSUED BY PLAINTIFFS TO ADAM FOLTZ**

---

Adam Foltz, through his attorneys, produces the enclosed documents in response to the subpoena issued by Plaintiffs on December 13, 2011, in the above-captioned matter. Mr. Foltz has also withheld certain privileged documents described in the following privilege log. Mr. Foltz has also withheld documents which constitute attorney-client communications.

Privilege Log

The following documents or categories of documents are privileged and are, therefore, not being produced.

1. July 7, 2011 email between Legislative Staff Member Adam Foltz and State Representative regarding area alternatives.

Grounds for Privilege: Legislative Privilege. Contains "information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to" prepare Wisconsin Acts 43 and 44; "information concerning the identities of persons who participated in decisions regarding" the preparation of Wisconsin Acts 43 and 44; and information amounting to "opinions, recommendations or advice." *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

2. July 7, 2011, email correspondence between Legislative Staff Member Adam Foltz and Legislative Staff Member Tad Ottman regarding area alternatives.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

3. July 18, 2011, email exchange between Legislative Staff Member Adam Foltz and Legislative Staff Member Tad Ottman regarding potential amendment to Act 43.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

4. July 11, 2011, email exchange between Legislative Staff Member Adam Foltz and Legislative Staff Member Tad Ottman regarding Hispanic population heat map.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

5. July 9, 2011, email exchange between Legislative Staff Member Adam Foltz and State Representative and Legislative Staff Member Tad Ottman regarding Hispanic district alternatives.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

6. March 1, 2011, email exchange between Legislative Staff Member Adam Foltz and Legislative Staff Member Tad Ottman regarding election data.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

7. Documents used during meetings between Legislative Staff Member Adam Foltz and State Representatives, including memoranda analyzing population changes of each district enumerated in the 2010 census, maps illustrating the analysis of the district population changes over the decade, maps confirming the physical location of members' residence, and new district analysis.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

8. Political analysis of draft/final maps compared to current districts.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

9. Demographic analysis of minority population trends/proportionality.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

10. Spreadsheets analyzing census and election data.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare

Wisconsin Acts 43 and 44; "information concerning the identities of persons who participated in decisions regarding" the preparation of Wisconsin Acts 43 and 44; and information amounting to "opinions, recommendations or advice." *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

11. Maps incorporating census and elections data.

Grounds for Privilege: Legislative Privilege. Contains "information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to" prepare Wisconsin Acts 43 and 44; "information concerning the identities of persons who participated in decisions regarding" the preparation of Wisconsin Acts 43 and 44; and information amounting to "opinions, recommendations or advice." *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

12. Draft maps prepared by Legislative Staff Member Adam Foltz.

Grounds for Privilege: Legislative Privilege. Contains "information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to" prepare Wisconsin Acts 43 and 44; "information concerning the identities of persons who participated in decisions regarding" the preparation of Wisconsin Acts 43 and 44; and information amounting to "opinions, recommendations or advice." *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

Dated this 21<sup>st</sup> day of December, 2011.

**MICHAEL BEST & FRIEDRICH LLP**

By: 

Eric M. McLeod, SBN 1021730

[emmcleod@michaelbest.com](mailto:emmcleod@michaelbest.com)

Joseph Louis Olson, SBN 1046162

[jlolson@michaelbest.com](mailto:jlolson@michaelbest.com)

Aaron H. Kastens, SBN 1045209

[ahkastens@michaelbest.com](mailto:ahkastens@michaelbest.com)

**MICHAEL BEST & FRIEDRICH LLP**

One South Pinckney Street, Suite 700

Post Office Box 1806

Madison, WI 53701-1806

Telephone: 608.257.3501

Facsimile: 608.283.2275

# **EXHIBIT 13**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

ALVIN BALDUS, et al.,

Plaintiffs,

v.

Case No. 11-CV-562

MEMBERS OF THE WISCONSIN  
GOVERNMENT ACCOUNTABILITY BOARD, et al.,

Defendants.

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**DOCUMENTS PRODUCED IN RESPONSE TO SUBPOENA  
ISSUED BY PLAINTIFFS TO TAD OTTMAN**

---

Tad Ottman, through his attorneys, produces the enclosed documents in response to the subpoena issued by Plaintiffs on December 13, 2011, in the above-captioned matter. Mr. Ottman has also withheld certain privileged documents described in the following privilege log. Mr. Ottman has also withheld documents which constitute attorney-client communications.

Privilege Log

The following documents or categories of documents are privileged and are not being produced.

1. May 4, 2011 email correspondence from State Senator to Legislative Staff Member Tad Ottman regarding area alternatives.

Grounds for Privilege: Legislative Privilege. Contains "information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to" prepare Wisconsin Acts 43 and 44; "information concerning the identities of persons who participated in decisions regarding" the preparation of Wisconsin Acts 43 and 44; and information amounting to "opinions, recommendations or advice." *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

2. July 18, 2011, email exchange between Legislative Staff Member Adam Foltz and Legislative Staff Member Tad Ottman regarding potential amendment to Act 43.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

3. July 9, 2011, email exchange between Legislative Staff Member Adam Foltz and State Representative and Legislative Staff Member Tad Ottman regarding alternatives for AD 8 and AD 9.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

4. July 7, 2011 email between Legislative Staff Member Adam Foltz and State Representative regarding area alternatives.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

5. July 14, 2011 email correspondence and attachments from Tad Ottman to Legislative Staff Member regarding alternatives for AD 8 and AD 9.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair*



*and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

6. March 1, 2011 email correspondence from Adam Foltz to Tad Ottman regarding election data.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

7. Documents used during meetings between Legislative Staff Member Tad Ottman and individual Legislators, including reports related to the 2002 maps, proposed new district analysis, population change analysis, maps confirming the physical location of member’s residence.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

8. Documents created in preparation for meetings between Legislative Staff Member Tad Ottman and individual Legislators.

Grounds for Privilege: Legislative Privilege. Contains “information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to” prepare Wisconsin Acts 43 and 44; “information concerning the identities of persons who participated in decisions regarding” the preparation of Wisconsin Acts 43 and 44; and information amounting to “opinions, recommendations or advice.” *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

9. Various draft legislative redistricting maps prepared by Tad Ottman.

Grounds for Privilege: Legislative Privilege. Contains "information concerning the motives, objectives, plans, reports and/or procedures used by lawmakers to" prepare Wisconsin Acts 43 and 44; "information concerning the identities of persons who participated in decisions regarding" the preparation of Wisconsin Acts 43 and 44; and information amounting to "opinions, recommendations or advice." *Comm. For a Fair and Balanced Map v. Ill. State Bd. Of Elections*, No. 11-CV-5065, 2011 U.S. Dist. LEXIS 117656 (N.D. Ill. Oct. 12, 2011) \* 32-34.

Dated this 22<sup>nd</sup> day of December, 2011.

**MICHAEL BEST & FRIEDRICH LLP**

By: 

Eric M. McLeod, SBN 1021730

[emmcleod@michaelbest.com](mailto:emmcleod@michaelbest.com)

Joseph L. Olson, SBN 1046162

[jlolson@michaelbest.com](mailto:jlolson@michaelbest.com)

Aaron H. Kastens, SBN 1045209

[ahkastens@michaelbest.com](mailto:ahkastens@michaelbest.com)

MICHAEL BEST & FRIEDRICH LLP  
One South Pinckney Street, Suite 700  
Post Office Box 1806  
Madison, WI 53701-1806  
Telephone: 608.257.3501  
Facsimile: 608.283.2275

029472-0001\10685109.1

# **EXHIBIT 14**

Tad and Adam,

Does this happen when assigning from a particular layer?

Is this with all your plans (New, Existing or one's created from a template)? Do the plans have spaces or special characters in their name?

I have been trying hard to recreate the error and I may need some more information.

Thank you,

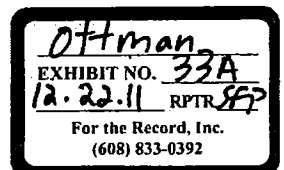
Tony

---

**From:** tottman [mailto:]  
**Sent:** Wednesday, May 04, 2011 10:23 AM  
**To:** Squires, Ryan  
**Subject:** Autobound crash

Ryan,

This is a picture of what I get when autobound crashes on me. I was working on a map that has effectively 8 Assembly Districts assigned, I clicked on "current district" on the autobound tools to switch districts. The district numbers came up, when I clicked on the new district I wanted to move to, the program crashed and closed out and this popped up: (If form holds, this will happen on nearly every district switch using the toolbar the rest of the way until I have them all filled in and can left click between districts)





Tad Ottman <tottman@gmail.com>

---

## MALDEF

2 messages

---

Jim Troupis <jrtroupis@troupislawoffice.com>

Tue, Jul 12, 2011 at 3:32 PM

To: tottman <tottman@gmail.com>, adamfoltz@gmail.com

Cc: "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

Troupis Law Office LLC

7609 Elmwood Ave

Suite 102

Middleton, WI 53562

608.807.4096

[jrtroupis@troupislawoffice.com](mailto:jrtroupis@troupislawoffice.com)

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---

tottman <tottman@gmail.com>

Tue, Jul 12, 2011 at 3:43 PM

To: Jim Troupis <jrtroupis@troupislawoffice.com>

Cc: adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com



Tad Ottman <tottman@gmail.com>

---

## FW: MALDEF WI House Plan, (2nd edition)

6 messages

---

Jim Troupis <jrtroupis@troupislawoffice.com>

Mon, Jul 11, 2011 at 5:05 PM

To: tottman <tottman@gmail.com>, adamfoltz@gmail.com

Cc: "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

Troupis Law Office LLC

7609 Elmwood Ave

Suite 102

Middleton, WI 53562

608.807.4096

jrtroupis@troupislawoffice.com

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---

**From:** Elisa Alfonso [mailto:[ealfonso@MALDEF.org](mailto:ealfonso@MALDEF.org)]

**Sent:** Monday, July 11, 2011 4:50 PM

**To:** 'Jim Troupis'

**Cc:** Alonzo Rivas

**Subject:** FW: MALDEF WI House Plan, (2nd edition)

Jim,

As promised, here is the MALDEF map we discussed this afternoon.

If you have any questions, please let us know.

Elisa

---

 **WI\_House\_MALDEF\_Plan2.zip**  
314K

---

**tottman <tottman@gmail.com>**

**Mon, Jul 11, 2011 at 5:35 PM**

To: Jim Troupis <jrtroupis@trouplawoffice.com>

Cc: adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

---

**Jim Troupis <jrtroupis@trouplawoffice.com>**

**Mon, Jul 11, 2011 at 5:41 PM**

To: tottman <tottman@gmail.com>

Cc: adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

Troupis Law Office LLC

7609 Elmwood Ave

Suite 102

Middleton, WI 53562

608.807.4096

[jrtroupis@trouplawoffice.com](mailto:jrtroupis@trouplawoffice.com)

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**From:** tottman [mailto:[tottman@gmail.com](mailto:tottman@gmail.com)]

**Sent:** Monday, July 11, 2011 5:35 PM

**To:** Jim Troupis

**Cc:** [adamfoltz@gmail.com](mailto:adamfoltz@gmail.com); McLeod, Eric M (22257); [rptaffora@michaelbest.com](mailto:rptaffora@michaelbest.com)

**Subject:** Re: FW: MALDEF WI House Plan, (2nd edition)

[Quoted text hidden]

---

**tottman** <[tottman@gmail.com](mailto:tottman@gmail.com)>

Mon, Jul 11, 2011 at 5:57 PM

To: Jim Troupis <[jrtroupis@trouplawoffice.com](mailto:jrtroupis@trouplawoffice.com)>

Cc: [adamfoltz@gmail.com](mailto:adamfoltz@gmail.com), "McLeod, Eric M (22257)" <[EMMcLeod@michaelbest.com](mailto:EMMcLeod@michaelbest.com)>, [rptaffora@michaelbest.com](mailto:rptaffora@michaelbest.com)

**Jim Troupis** <[jrtroupis@trouplawoffice.com](mailto:jrtroupis@trouplawoffice.com)>

Mon, Jul 11, 2011 at 6:42 PM

To: tottman <[tottman@gmail.com](mailto:tottman@gmail.com)>, [adamfoltz@gmail.com](mailto:adamfoltz@gmail.com), "McLeod, Eric M (22257)"

<[EMMcLeod@michaelbest.com](mailto:EMMcLeod@michaelbest.com)>, [rptaffora@michaelbest.com](mailto:rptaffora@michaelbest.com)



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608.807.4096

[jtroupis@trouplawoffice.com](mailto:jtroupis@trouplawoffice.com)

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---

**From:** Jim Troupis [mailto:[jtroupis@trouplawoffice.com](mailto:jtroupis@trouplawoffice.com)]

**Sent:** Monday, July 11, 2011 6:41 PM

**To:** 'Elisa Alfonso'; 'Alonzo Rivas'

**Subject:** FW: FW: MALDEF WI House Plan, (2nd edition)

Elisa and Alonzo,

I like your proposal. We've taken it a bit further. Here is a comparison of MALDEF's proposal to a suggestion we think might work a bit better. MALDEF's option is shown in color and our suggestion to do the same thing on the same template is shown in outline form as an overlay.

The HVAP numbers under the 2 plans:

MALDEF

AD 8 60.10

AD 9 53.00

Our Alternative

AD 8 60.52

AD 9 54.03

So this takes the same principal and improves it slightly on the numbers. Importantly, the MALDEF proposal would result in changing at least four other assembly districts in the present legislation, while this alternative would not cause those other unnecessary changes. As a result, I think the legislature could move to your suggestion—with our small changes.

Let us know what you think.

The hearing is on Wens., and if you would be willing to speak on behalf of this, we can then make sure you are on the agenda and the plan is given complete consideration.

Jim

Troupis Law Office LLC

7609 Elmwood Ave

Suite 102

Middleton, WI 53562

608.807.4096

[jrtroupis@troupislawoffice.com](mailto:jrtroupis@troupislawoffice.com)

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---

**From:** Elisa Alfonso [mailto:[ealfonso@MALDEF.org](mailto:ealfonso@MALDEF.org)]  
**Sent:** Monday, July 11, 2011 4:50 PM  
**To:** 'Jim Troupis'  
**Cc:** Alonzo aRivas  
**Subject:** FW: MALDEF WI House Plan, (2nd edition)

Jim,

As promised, here is the MALDEF map we discussed this afternoon.

If you have any questions, please let us know.

Elisa

---

 Comparison of 64-50 maps.pdf  
64K

---

Jim Troupis <jrtroupis@troupislawoffice.com>

Tue, Jul 12, 2011 at 12:00 PM

To: tottman@gmail.com, adamfoltz@gmail.com, "McLeod, Eric M (22257)" <EMMcLeod@michaelbest.com>, rptaffora@michaelbest.com

James R. Troupis

Troupis Law Office LLC

[jrtroupis@troupislawoffice.com](mailto:jrtroupis@troupislawoffice.com)

ph. 608-807-4096

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Case 2:11-cv-00562-JPS-DPW-RMD Filed 12/27/11 Page 9 of 12 Document 89-14

contact the sender immediately and permanently delete the original and any copies of this email and any attachments thereto.

---

**From:** Elisa Alfonso [mailto:[ealfonso@MALDEF.org](mailto:ealfonso@MALDEF.org)]  
**Sent:** Tuesday, July 12, 2011 11:41 AM  
**To:** Jim Troupis; Alonzo Rivas  
**Subject:** Re: FW: MALDEF WI House Plan, (2nd edition)

Jim,  
Alonzo is out this morning and won't be back until this afternoon.

In regards to the MALDEF map, we will go with the recommendation you made last night.

As for tomorrow, we are unfamiliar with the process. Does it have to be oral testimony or can it be written? Any suggestions you can give us will be greatly appreciated.

We definitely need to speak today. Please let us know when you think we can have a call after your meetings.

Thank you.

Sent via BlackBerry by AT&T

---

**From:** Jim Troupis <[jtroupis@troupislawoffice.com](mailto:jtroupis@troupislawoffice.com)>  
**Date:** Tue, 12 Jul 2011 10:35:56 -0500  
**To:** Elisa Alfonso<[ealfonso@MALDEF.org](mailto:ealfonso@MALDEF.org)>; Alonzo Rivas<[Arivas@MALDEF.org](mailto:Arivas@MALDEF.org)>  
**Subject:** RE: FW: MALDEF WI House Plan, (2nd edition)

Elisa,

I am meeting with legislative leaders this afternoon. Can we talk later this morning? The hearing will be tomorrow at 10 a.m. in Madison, and so, to the extent we can, we would like to insure that the concerns of the Latino community are addressed. This morning I asked staff to consult with our Legislative Reference Bureau on these alternatives as they must ultimately draft any amendment.

Let me know what works.

Jim

James R. Troupis

Troupis Law Office LLC

[jrtroupis@trouplawoffice.com](mailto:jrtroupis@trouplawoffice.com)

ph. 608-807-4096

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**From:** Jim Troupis [mailto:[jrtroupis@trouplawoffice.com](mailto:jrtroupis@trouplawoffice.com)]  
**Sent:** Monday, July 11, 2011 6:41 PM  
**To:** Elisa Alfonso; Alonzo Rivas  
**Subject:** FW: FW: MALDEF WI House Plan, (2nd edition)

Elisa and Alonzo,

I like your proposal. We've taken it a bit further. Here is a comparison of MALDEF's proposal to a suggestion we think might work a bit better. MALDEF's option is shown in color and our suggestion to do the same thing on the same template is shown in outline form as an overlay.

The HVAP numbers under the 2 plans:

MALDEF

AD 8 60.10

AD 9 53.00

Our Alternative

AD 8 60.52

AD 9 54.03

So this takes the same principal and improves it slightly on the numbers. Importantly, the MALDEF proposal would result in changing at least four other assembly districts in the present legislation, while this alternative would not cause those other

unnecessary changes. As a result, I think the legislature could move to your suggestion—with our small changes.

Let us know what you think.

The hearing is on Wens., and if you would be willing to speak on behalf of this, we can then make sure you are on the agenda and the plan is given complete consideration.

Jim

Troupis Law Office LLC

7609 Elmwood Ave

Suite 102

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608.807.4096

[jrtroupis@troupislawoffice.com](mailto:jrtroupis@troupislawoffice.com)

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---

**From:** Elisa Alfonso [<mailto:ealfonso@MALDEF.org>]

**Sent:** Monday, July 11, 2011 4:50 PM

**To:** 'Jim Troupis'

**Cc:** Alonzo aRivas

**Subject:** FW: MALDEF WI House Plan, (2nd edition)

Jim,

As promised, here is the MALDEF map we discussed this afternoon.

If you have any questions, please let us know.

Elisa

# **EXHIBIT 15**

Tad and Adam,

Does this happen when assigning from a particular layer?

Is this with all your plans (New, Existing or one's created from a template)? Do the plans have spaces or special characters in their name?

I have been trying hard to recreate the error and I may need some more information.

Thank you,

Tony

---

**From:** tottman [mailto:]  
**Sent:** Wednesday, May 04, 2011 10:23 AM  
**To:** Squires, Ryan  
**Subject:** Autobound crash

Ryan,

This is a picture of what I get when autobound crashes on me. I was working on a map that has effectively 8 Assembly Districts assigned, I clicked on "current district" on the autobound tools to switch districts. The district numbers came up, when I clicked on the new district I wanted to move to, the program crashed and closed out and this popped up: (If form holds, this will happen on nearly every district switch using the toolbar the rest of the way until I have them all filled in and can left click between districts)







Tad Ottman <tottman@gmail.com>

---

## Alternative Confitureation of ADs 8 and 9

13 messages

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---

 **Alternative ADs 8 and 9.pdf**  
106K

---

tottman <tottman@gmail.com>  
To: scottjensen@wi.rr.com

Fri, Jul 8, 2011 at 5:07 PM

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Scott Jensen <scottjensen@wi.rr.com>  
To: tottman <tottman@gmail.com>

Fri, Jul 8, 2011 at 10:21 PM

Tad,

Thanks.

Scott

<Alternative ADs 8 and 9.pdf>

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Scott Jensen <scottjensen@wi.rr.com>  
To: Jesus Rodriguez <zeus@rodriguezwi.com>  
Cc: tottman <tottman@gmail.com>

Fri, Jul 8, 2011 at 10:24 PM

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Date: July 8, 2011 5:07:53 PM CDT  
To: scottjensen@wi.rr.com  
Subject: **Fwd: Alternative Conffitureation of ADs 8 and 9**

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3 attachments

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Thank you. I look forward to the rest of the maps.

Agnus Dei, qui tollis peccata Mundi.

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J: RodriguezWI <zeus@rodriguezwi.com>

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Sat, Jul 9, 2011 at 7:43 PM

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Thanks,

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60K

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61K

 **Waukesha HVAP Current District.pdf**  
100K

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---

 **AD 8 and 9 alternative with current overlay.pdf**  
59K

# Milwaukee County - Hispanic Voting Age Population

## Hispanic Voting Age Population

### Hispanic 18+ Concentration

#### HISPANIC18 / PERSONS18

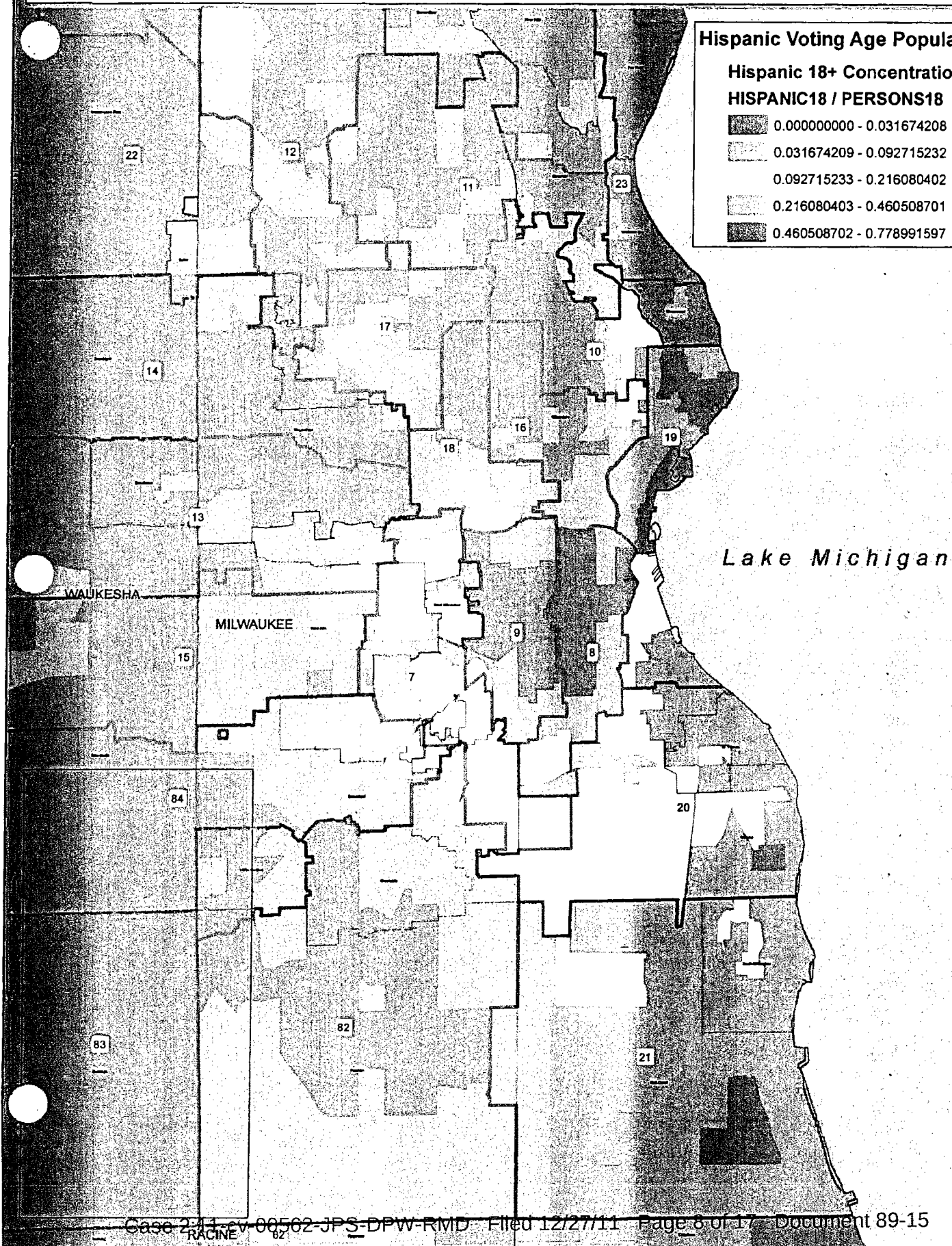
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0.092715233 - 0.216080402

0.216080403 - 0.460508701

0.460508702 - 0.778991597



# Milwaukee County - Hispanic Voting Age Population

## Hispanic Voting Age Population

State House

### Hispanic 18+ Concentration

HISPANIC18 / PERSONS18

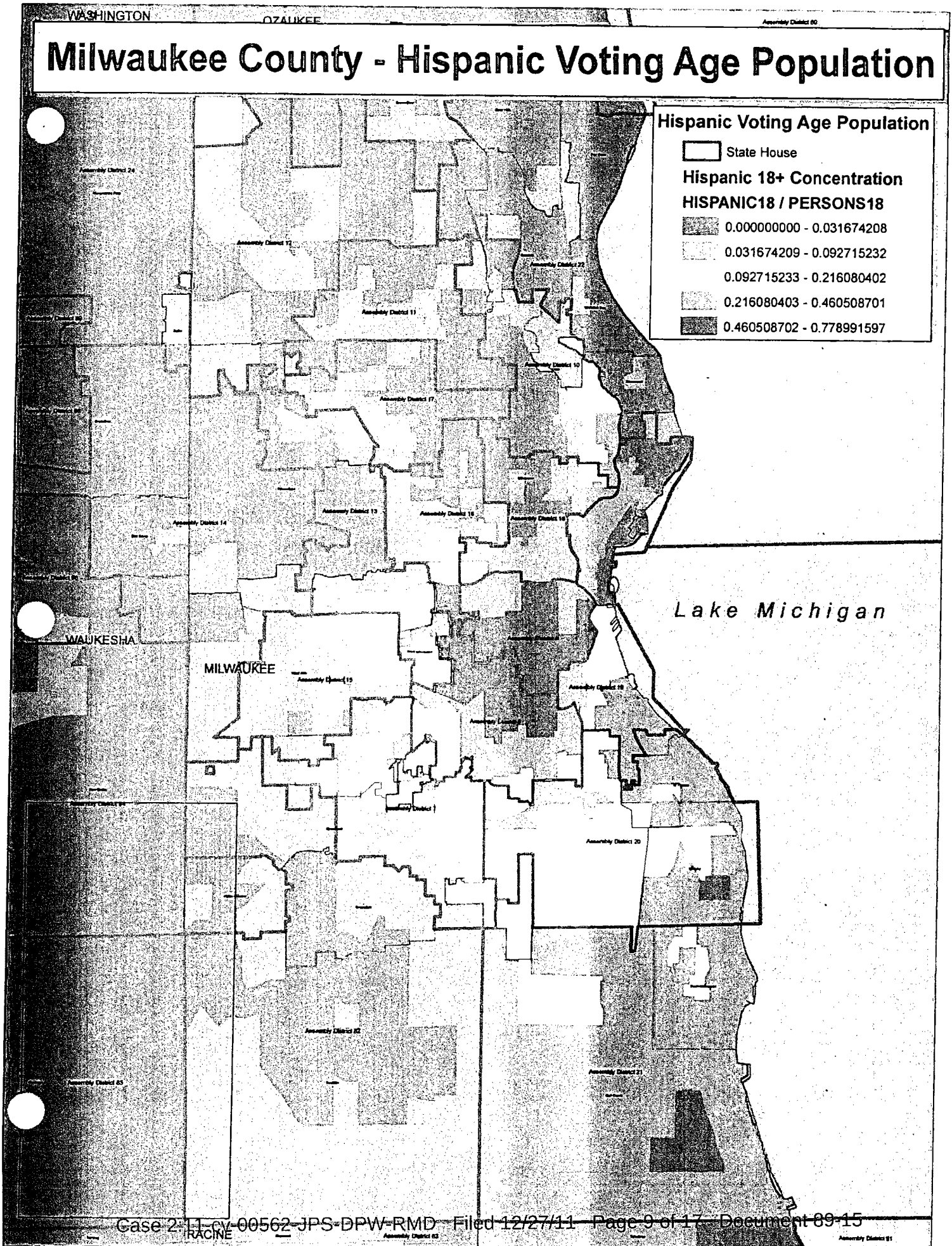
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# Milwaukee County - Hispanic Voting Age Population

## Hispanic Voting Age Population

HispanicAmendment

Hispanic 18+ Concentration

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0.000000000 - 0.031674208

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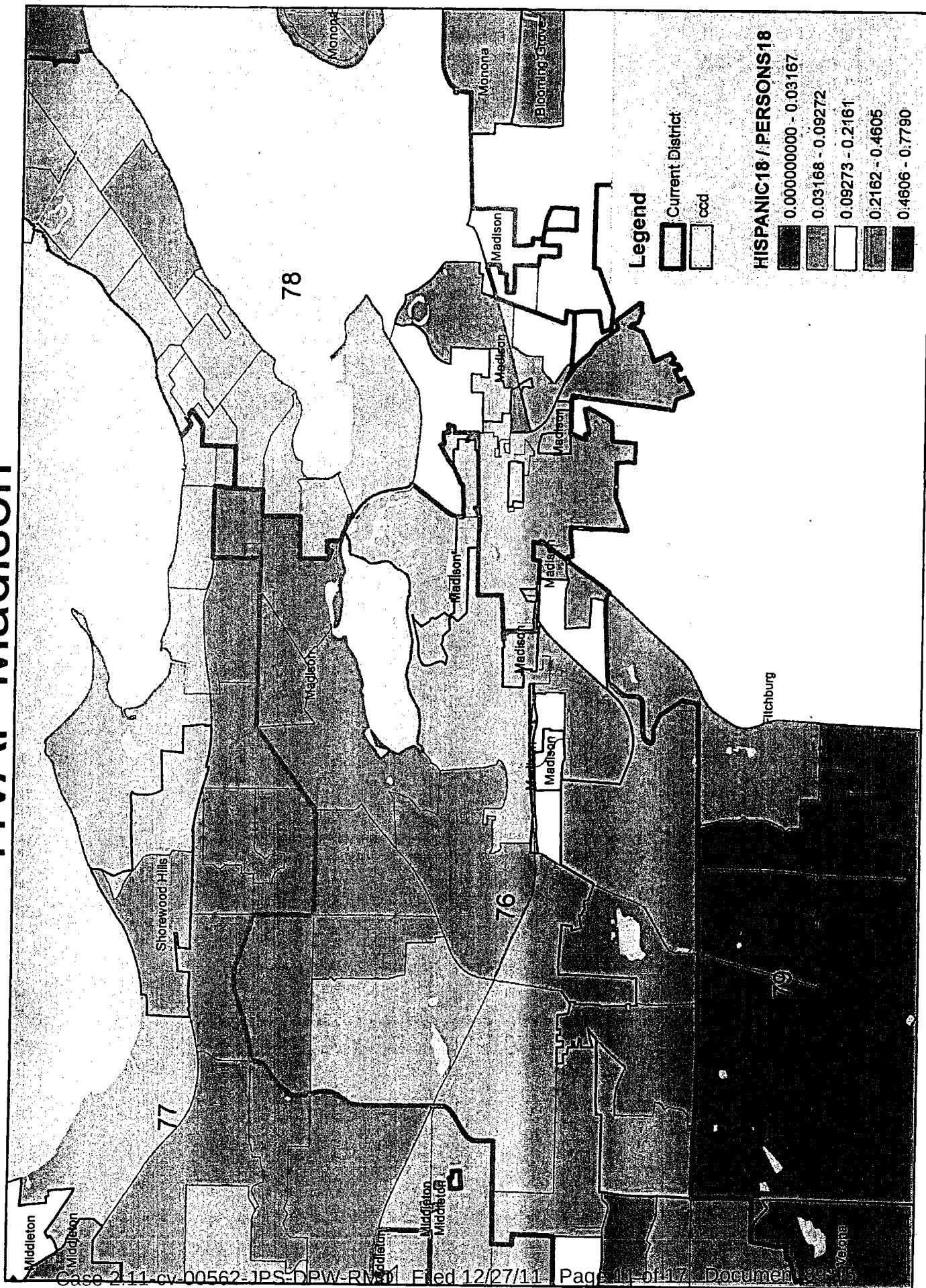
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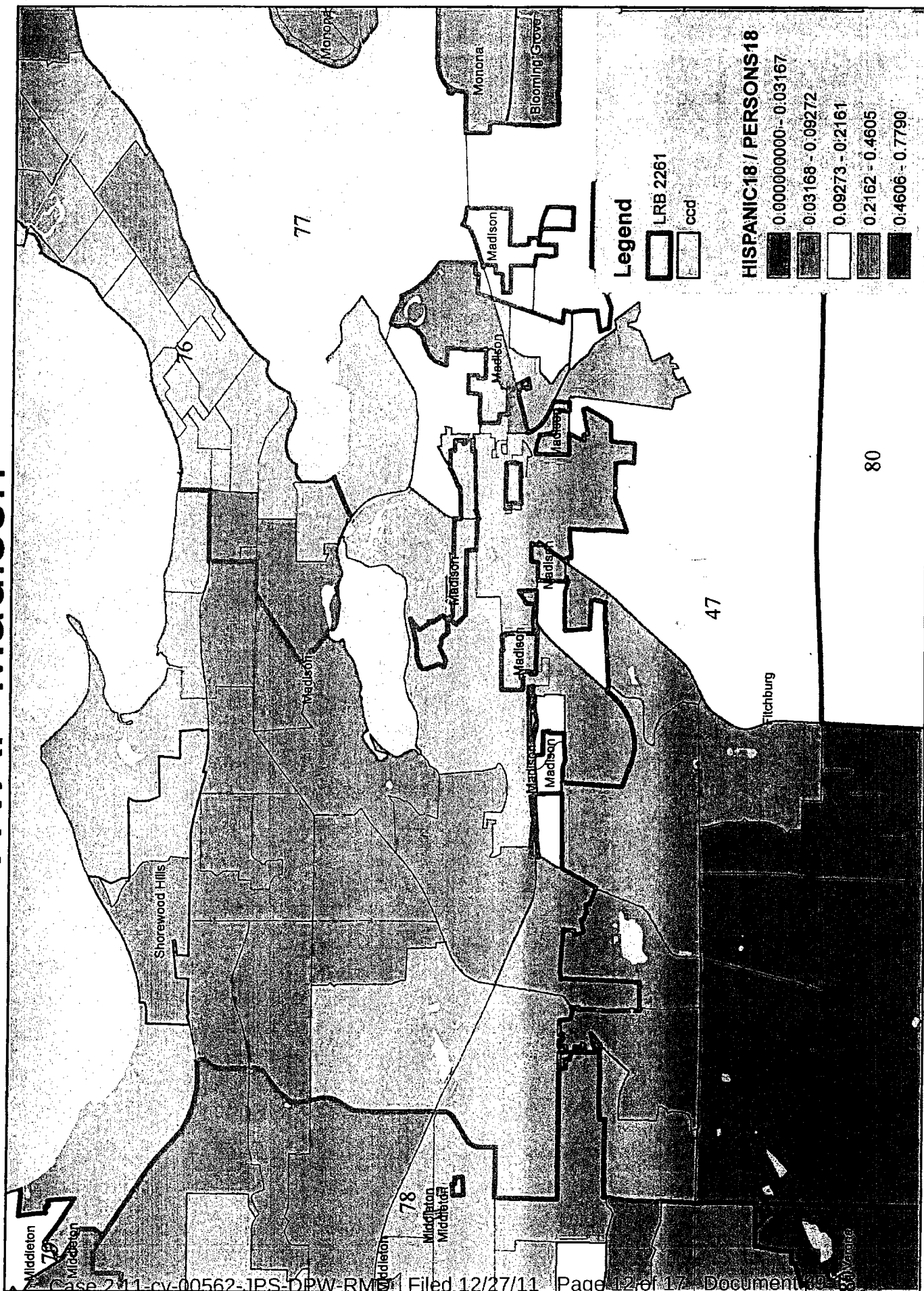
Lake Michigan



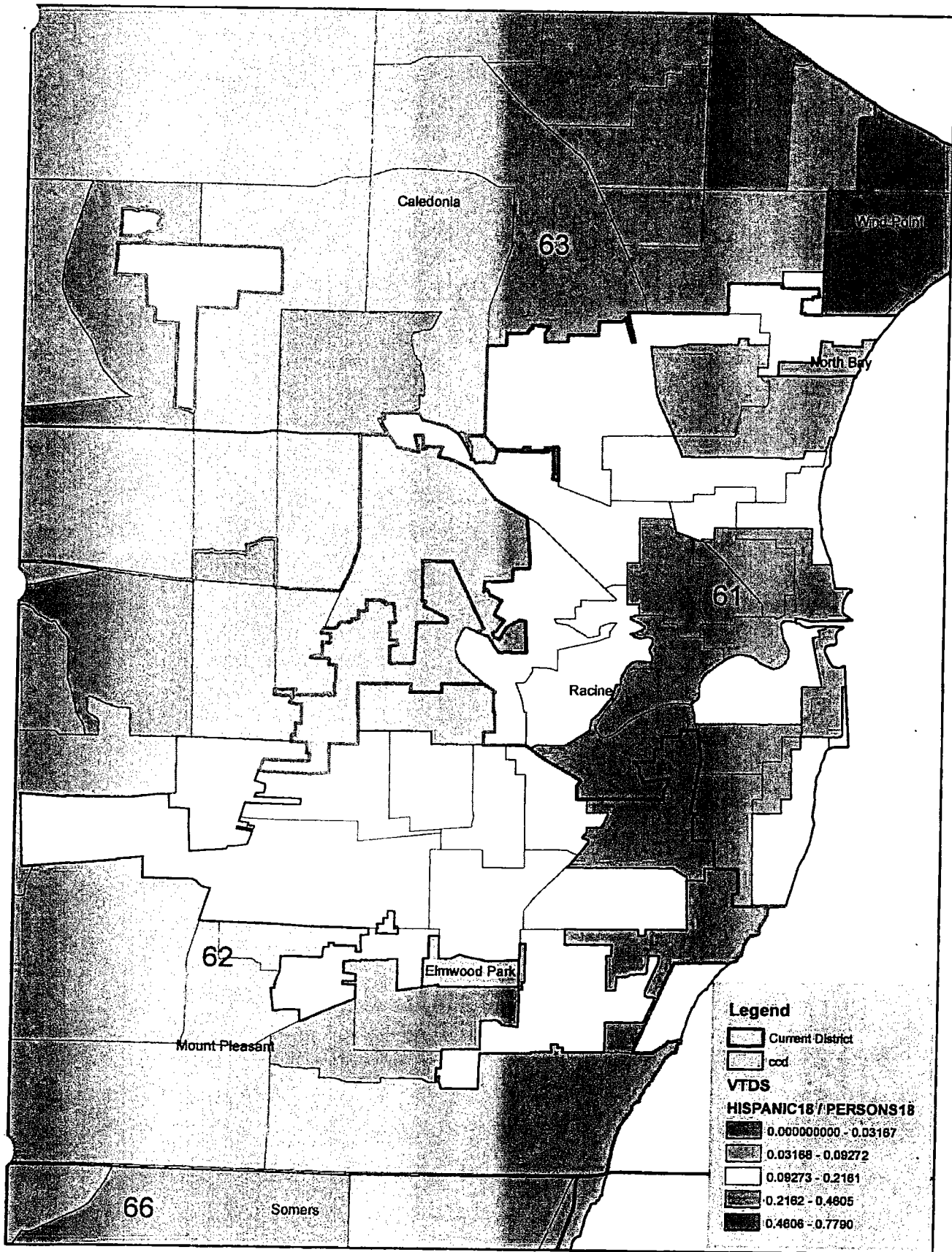
# HVAP Madison



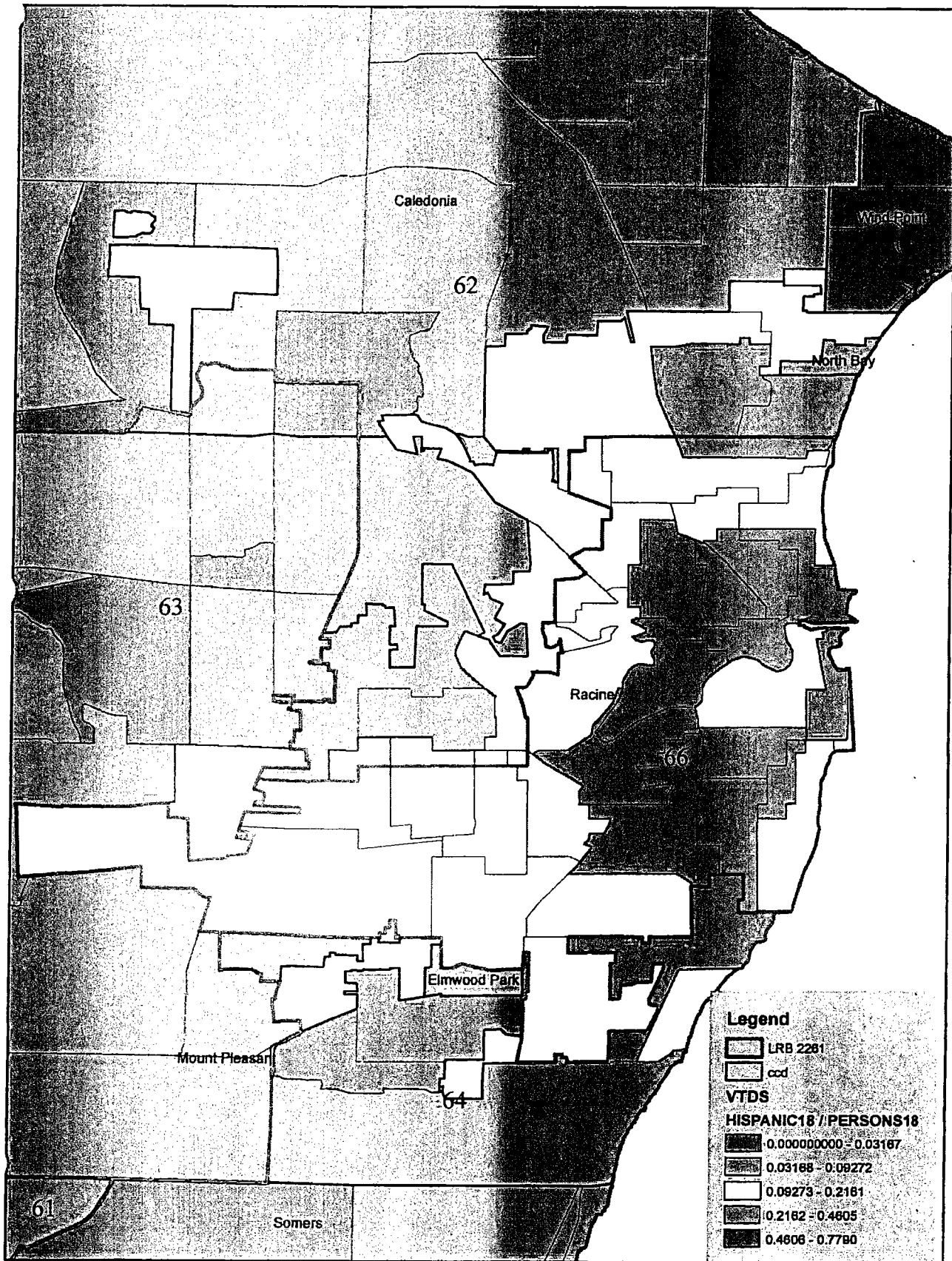
# HVAP Madison



# HVAP Racine

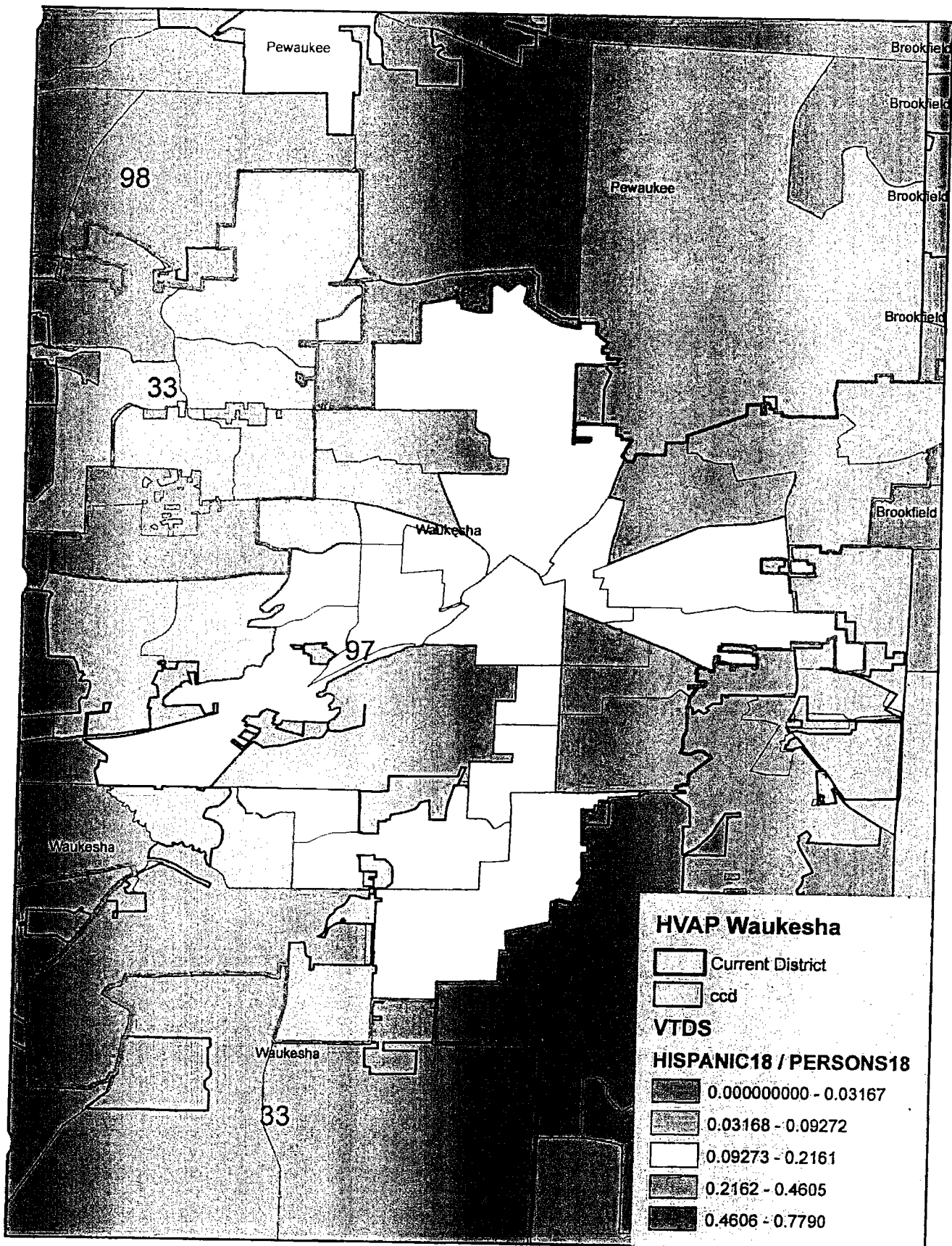


# HVAP Racine

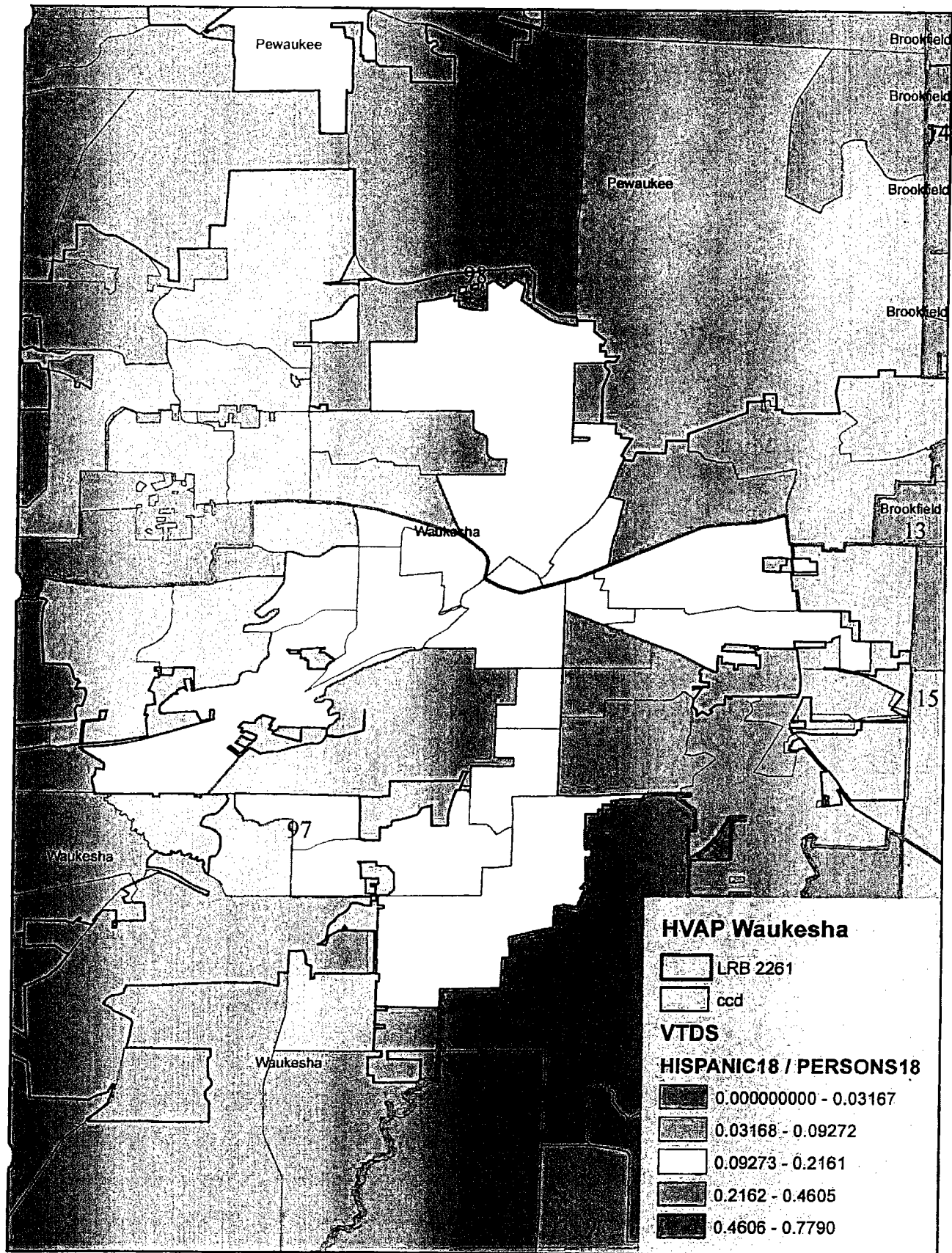


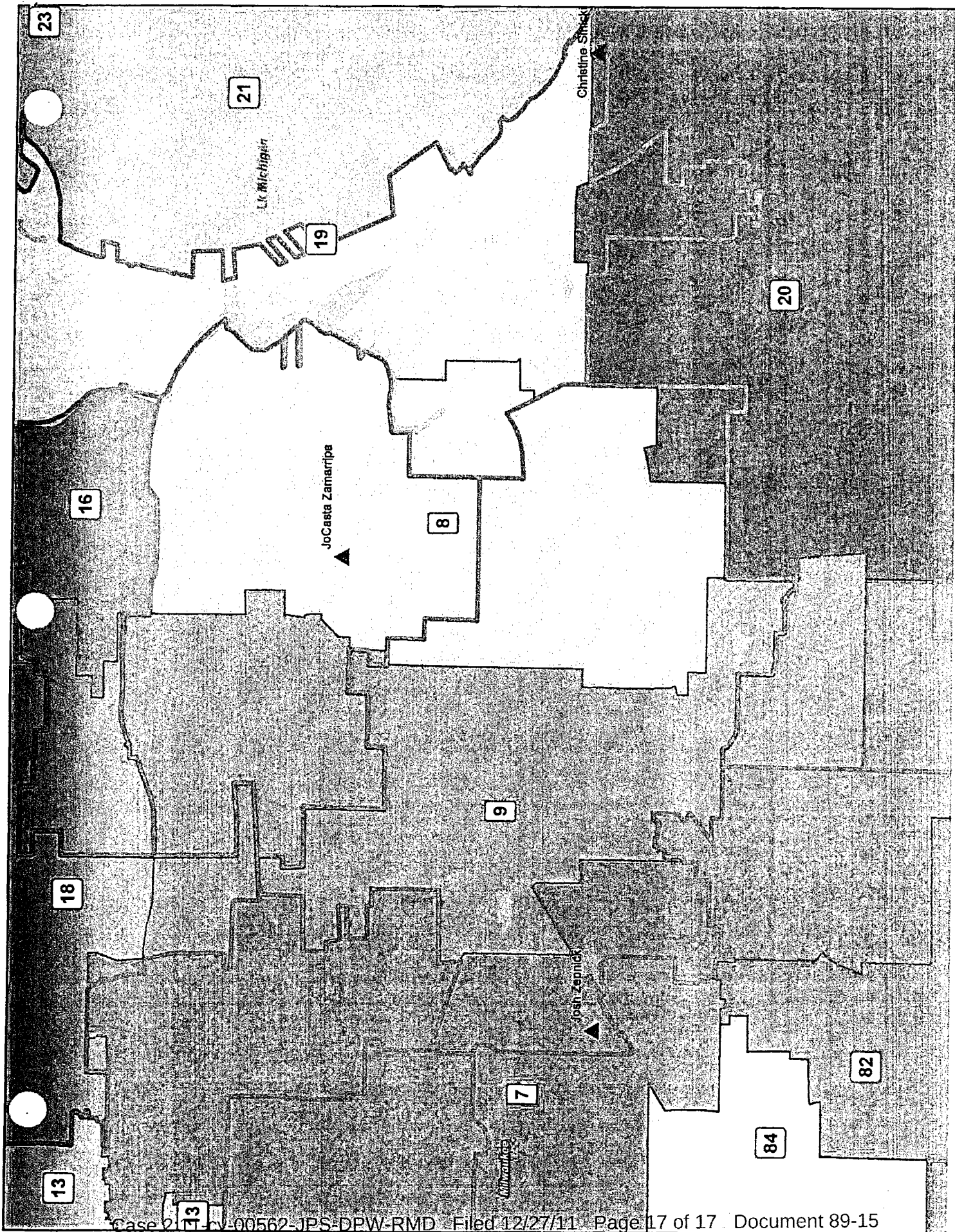


# HVAP Waukesha



# HVAP Waukesha





# **EXHIBIT 16**





Tad Ottman <tottman@gmail.com>

## Alternative Confitureation of ADs 8 and 9

13 messages

Adam Foltz <adamfoltz@gmail.com>

Fri, Jul 8, 2011 at 4:30 PM

To: rptaffora@michaelbest.com, Eric McLeod <emmcleod@michaelbest.com>

Cc: tad ottman <tottman@gmail.com>

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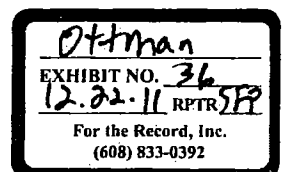
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